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Massachusetts Community Mediation Center Grant Program

Fiscal Year 2019 Report & Evaluation

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

December 2019

The Massachusetts Community Mediation Center Grant Program annual report to the state reports on implementation and impact of the program in its seventh 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

In Fiscal Year (FY) 2019, the Community Mediation Center Grant Program (Grant Program) continued to make progress in implementing its mission to increase public access to community mediation in Massachusetts. Out of an appropriation of \$990,000, operational funds amounting to \$785,600 were distributed to 12 community mediation centers (funded centers or centers) that demonstrated their merit through a performance-based application process. Apart from delays in the launch of the new youth program grants, the grant-making process proceeded smoothly and to the satisfaction of most applicants. To ensure the future availability of community mediation services and the continued existence of community mediation centers and the Grant Program, the Grant Program administrator (the Massachusetts Office of Public Collaboration or MOPC) and the centers jointly engaged in budget advocacy, program development, and strategic plan activities throughout the year. Efforts on behalf of the budget request for \$1,090,000 in FY 2020 Program funding involved outreach efforts – not only to legislators but also to the Governor’s Office – that resulted in an appropriation in the amount requested. Strategic action plans to address staffing, mediator, awareness, and funding challenges continued to develop. In particular, progress towards increasing public awareness of community mediation was made through work on branding and on motto and website design. Program development, which was pursued as both a funding strategy and a response to community needs, led to the formation of a program to strengthen young people’s abilities, funded through Grant Program grants to participating centers – and to consideration of future Grant Program funding for a prisoner reentry mediation program. Feedback about Grant Program improvements obtained from the Program’s advisory body and from centers led to changes in the protocols for the youth projects and encouraged the continued use of legislative briefings for budget advocacy.

With financial support from the Grant Program, centers were able to operate as alternate dispute resolution (ADR) providers. Grant Program grants were important to the economic viability of centers, constituting 32% of collective center income and averaging approximately 37% of individual center income. Operational benefits to center sustainability, to centers’ work structure, and to the breadth of centers’ service to the community were attributed by most centers to Grant Program funding. Grant Program grants partially influenced centers’ work structure by contributing to increases in staffing hours, the number of active volunteer mediators, mediator diversity, and staff and mediator professional development. Nevertheless, staffing and mediator needs were among the top three concerns of most centers. The grants also had a positive effect on centers’ service to the community by supporting the provision of services to underserved populations, an expansion in the types of disputes mediated, and in the number of hours available for mediation.

Centers did their part to advance public access to community mediation throughout Massachusetts. Notwithstanding a small decline of 1.6% in demand for services since the previous fiscal year, in FY 2019 centers handled over 4,000 cases that involved an estimated 8,000 parties, who hailed from cities and towns throughout the commonwealth and were racially/ethnically and financially diverse. The cases that were mediated resulted in a 72.7% agreement rate that was in line with typical agreement rates generated by other mediation programs. Satisfaction with the mediation process was indicated by a majority of surveyed parties: large majorities of these respondents indicated satisfaction with, preference for, and

willingness to recommend mediation. According to sizable minorities of surveyed mediation participants (32% to 48%), mediation had a positive impact on conflict, conflict management and on party relations and communication. As for the economic benefits accruing to mediating parties, mediation agreements that were achieved in cases involving consumer and landlord-tenant disputes yielded a return of \$3,722,313 to parties. The economic impact of operational funding provided through the Grant Program on Massachusetts communities as a whole was estimated to bring \$8,620,424 in cost savings and \$4,902,720 in leveraged resources for a total return of \$13,523,144 on the state's FY 2019 investment of \$990,000 in the Grant Program.

The impact of center services on the population served resulted from activities that accorded with the standards presented in the Twelve-Point Model of Community Mediation. Centers assured the high quality of their services through trainings, professional development opportunities, and mediator evaluation. In order to more fully address the conflict resolution needs of the community, centers undertook to expand their geographical coverage, the types of disputes they handled and the types of services provided. For example, centers were approved as ADR service providers in all court Departments, including, most recently, the Housing Court. Thus, in FY 2019 as in previous years, over 80% of centers' caseload was court-referred. Moreover, centers' relationship with the Trial Court was put on an improved financial footing when the Trial Court provided funding for centers' court-ADR work and for their participation in court projects, including the Trial Court's educational initiative on court-connected ADR. Restorative justice practices, conflict coaching, and facilitation were added to centers' service portfolio. Centers' outreach activities brought community mediation and centers to the attention of about 70,000 people. A minimum of 4,500 people learned about conflict resolution through center trainings and workshops. Consequently, 7,523 inquiries were fielded by centers, and 698 non-court cases (less than 20% of centers' caseload) received center mediation services. In response to the diversity in the communities they served, centers made attempts to increase the variety of their referral sources, to draw members of different population groups into center trainings, and to enhance the cultural sensitivity of their personnel. Centers endeavored to mitigate cost, geography, and time as obstacles to using mediation services by offering free or low-cost services and providing occasions to hold mediation sessions at locations and times convenient to parties. Centers worked on strengthening their community ties by creating opportunities for contributions from the community in the form of money and labor, such as holding community fundraisers and filling staff and mediator positions with members of the surrounding community.

To ensure the continued availability of the benefits conferred by the Grant Program on Massachusetts citizens, communities, and institutions, it was recommended that the Grant Program continue to be supported by the state, and that funded centers and MOPC persevere in their efforts to increase utilization of centers' ADR services.

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I. INTRODUCTION

Massachusetts' policy favoring increased public access to community mediation was set forth in MGL ch.75, §47, the enabling statute for the Community Mediation Center Grant Program (the Grant Program). The Grant Program was thereby established to broaden state-wide access to community mediation by providing operational funding to community mediation centers, which are grass roots organizations that provide free or low-cost mediation and other dispute resolution services to help resolve conflict in the community. The designated Grant Program administrator is the Massachusetts Office of Public Collaboration (MOPC), the statutory state office of dispute resolution (MGL ch.75, §46) and an applied research center at the University of Massachusetts Boston's John W. McCormack Graduate School of Policy & Global Studies.

Mediation is a non-adversarial, non-authoritarian process for resolving conflict where disputing parties are the decision-makers, the outcome is mutually acceptable, and the process entails a mediator-assisted discussion between disputants about their issues and settlement options.¹ In contrast to litigation, mediation purports to offer a more comprehensive approach to the community's dispute resolution needs than does litigation. Besides the potential avoidance of the costs in time and money associated with litigation, mediation, unlike litigation, can address issues that are not legally cognizable and may also deter parties from assuming oppositional positions that might otherwise emerge out of the adversarial stance of litigation.²

Since Fiscal Year (FY) 2013, annual Grant Program grants have been awarded to community mediation centers that completed an application process and met performance criteria related to the delivery of mediation services. In FY 2019, twelve community mediation centers qualified for Grant Program grants, totaling \$785,600. These funded centers (centers) were embedded in the community, providing community members with alternative dispute resolution (ADR) services as well as education and training in conflict management and, in turn, receiving support from the community in the form of donations and labor, among other things.

II. CMC GRANT PROGRAM ADMINISTRATION

Administration of the Grant Program involved implementing the Grant Program's central function to distribute funds to community mediation centers in a manner that furthered both the Grant Program's statutory mission to advance public access to mediation and the integrity of the performance basis of grant disbursement. Administrative responsibilities consequently went beyond simply maintaining a grant application process to encompass endeavors that would assure continued support for the Grant Program through budget advocacy and program development, address the future of community mediation through strategic planning, improve Grant Program operations through communications with centers and the program's advisory body, and provide accountability with reports to the advisory body and to the governor,

¹ Wilkinson, J. *A Study of Virginia and ten states: Final report and recommendations*. (2001). Virginia Association for Community Conflict Resolution (VACCR), Institute for Environmental Negotiation, University of Virginia; Wissler, R. L. (1995). Mediation and adjudication in the small claims court: The effects of process and case characteristics. *Law & Society Review*, 29:2, 323-358.

² Wissler, 1995, *ibid.*, p. 323.

chief justice, and legislators. These administrative duties were performed in FY 2019 by the Grant Program Manager assisted by MOPC staff and interns and under the leadership of the MOPC Executive Director.

A. GRANT-MAKING:

The distribution of funds to support the operation of Massachusetts community mediation centers is at the heart of the Grant Program. For FY 2019, the program received \$990,000 in state support through a budget appropriation, and distributed \$785,600 of operating funds in the form of grants to twelve applicants on the basis of applications that contained information about the applicants' eligibility as community mediation centers and their performance in delivering dispute resolution services to the public.

1. The grant application process:

Centers demonstrated eligibility by describing their compliance with four categories of 12 standards set forth in a Twelve-Point Model (Model) that aimed to reinforce center responsiveness to the community's conflict resolution needs (see Table 1).

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

Category	Criteria/standards constituting the 12-Point Model of Community Mediation in Massachusetts
Service to the community	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.
Providing accessible services	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.
Providing quality services	9-Maintain high quality mediation services by providing intensive, skills-based training, apprenticeships, continuing education AND on-going evaluation of volunteer mediators.
Reflecting diversity	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.

After receiving recommendations from a grant review committee about the applicants' qualifications for grant awards, the MOPC Executive Director made final decisions about grant recipients and award amounts. Table 2 lists the funded community mediation centers (centers).

Table 2. FY 2019 funded centers, center status and the counties of parties served.

Funded community mediation center	Center status	Counties of parties most frequently served by center
Housing and Consumer Mediation Center (BCRHA) in Pittsfield	Parent organization: Berkshire County Regional Housing Authority	Berkshire County
Cape Cod Dispute Resolution Center (Cape Mediation) in Orleans	Independent non-profit affiliated with Community Action Committee of Cape Cod & Islands	Barnstable and Nantucket Counties
Community Dispute Settlement Center (CDSC) in Cambridge	Independent non-profit	Middlesex, Norfolk, and Suffolk Counties
Family Services of Central Massachusetts Mediation Program (FSCM) in Worcester	Parent organization: Family Services of Central Massachusetts	Worcester County
Greater Brockton Center for Dispute Resolution (Greater Brockton) in Brockton	Independent non-profit	Bristol and Plymouth Counties
Martha's Vineyard Mediation Program (Martha's Vineyard) in Vineyard Haven	Independent non-profit	Dukes County
Middlesex Community College Law Center (MCC) in Lowell	Parent organization: Middlesex Community College	Essex, Middlesex, and Suffolk Counties
MetroWest Mediation Services (MetroWest) in Framingham	Independent non-profit	Middlesex County
Metropolitan Mediation Services (MMS) in Brookline	Parent organization: Brookline Community Mental Health Center	Middlesex, Norfolk, and Suffolk Counties
Mediation Services of North Central MA (MSI) in Leominster	Independent non-profit	Worcester County
North Shore Community Mediation Center (North Shore) in Beverly	Independent non-profit	Essex County
The Mediation & Training Collaborative (TMTC) in Greenfield	Parent organization: Community Action of Pioneer Valley	Franklin, Hampden, and Hampshire Counties

In response to center requests for a simpler grant application process, the application was modified to allow applicants to refer to data from reports generated by case management software, known as MADtrac, instead of furnishing a narrative as evidence of compliance with Model standards. By establishing eligibility, each applicant secured a baseline amount of \$24,000, for an overall total of \$288,000 in baseline grant awards. The assessment of the applicant's performance of dispute resolution services was based upon the quantity of mediation activities undertaken and progress in pursuing SMART goals selected by each center which advanced center services pursuant to Model standards. A prior constraint requiring that the center's four SMART goals be related to four separate Model categories was lifted, and applicants were permitted to choose any four goals that addressed the needs of the center and the community and were congruent with Model standards. The amount of the performance portion of the grant award varied with the performance level and SMART goal progress demonstrated by each applicant, and yielded \$342,000 in performance grants overall. Applicant descriptions of their collaborative activities

added between \$1,000 and \$4,500 to individual grants, for an extra collective \$30,000. In all, the operational grants to the twelve awardees, which were conditional upon required matches of 40% to 55%, amounted to \$660,000.

Additional grant money was available to applicants who opted to apply for Youth Project Grants (YPG), to fund projects that promoted youth development (see Appendix for more details). The low initial response to this opportunity prompted a second call for YPG applications. Eventually, five YPG projects were each awarded \$10,000-\$15,000, for a total of \$65,600. Every successful YPG applicant as well as centers who had not initially applied for a YPG was also awarded a bonus of \$5,000 after submitting a rationale for setting up a new youth project or expanding an existing youth project. Distribution of the bonus awards, however, was delayed until the university gave its approval for this move. The amount of Grant Program grants awarded to the twelve center applicants consequently increased to a grand total of \$785,600 for FY 2019.

2. Center feedback about the grant-making process

The grants for FY 2019 were produced through a three-year old application process. Center reactions to the process were fairly positive. Based on their responses to a post-grant application survey, most (nine) centers were satisfied or very satisfied with the grant application process, two centers were neutral, and another two centers were somewhat dissatisfied. A majority of ten centers reported that the application was easier, and none considered it more difficult. However, only a minority of four centers found they spent less time on the application. The remaining nine centers considered the application as time-consuming as ever. However, no one complained that the application took more time. Application components that met the approval of a majority of centers included the ability to substitute narrative with MADtrac data and removal of the requirement that each SMART goal be connected to a different Model category.

B. BUDGET ADVOCACY:

Beginning in FY 2013, the state's policy of broadening public access to community mediation, was implemented through annual legislative appropriations for the Grant Program. Program operations in FY 2019 were funded by an appropriation of \$990,000, with \$785,600 (79.4%) distributed in grants to qualified community mediation centers and \$204,400 (20.6%) covering program administration costs for MOPC. To fund the Grant Program in FY 2020, MOPC and centers converged on a budget request of \$1,090,000. The request – which met with unanimous center approval – included \$100,000 to pay for MOPC's services to the Grant Program, services that were formerly financed through the university before the latter diverted the funding to cure its budget deficit.

Each year, MOPC and funded centers jointly engaged in budget advocacy to ensure that legislators were aware of the value that the Grant Program conferred upon constituents and communities throughout the state. Efforts to gain state FY 2020 financial support for the Grant Program were undertaken in the winter of 2018-2019 as MOPC and centers contacted state officials to inform them about the Grant Program's function and impact and to discuss the budget request. Meetings were held with legislators – e.g., House and Senate leadership and the Senate minority leader – and with the Governor's Chief Legal Counsel and the legislative director at the Executive Office of Administration & Finance.

In January 2019, MOPC held an event at the State House to brief all legislators and their staff about the budget request and about initiatives pursued under Grant Program auspices. The briefing opened with greetings from Senator Adam Hinds and Representative Paul Tucker, and remarks from the Dean of the McCormack Graduate School at the University of Massachusetts Boston and from the MOPC Executive Director. To illustrate Grant Program achievements, a presentation followed, which not only described various approaches to youth conflict resolution along with projects that fostered positive youth development, but also highlighted a video featuring photographs and commentary from young people who were trained in conflict resolution and PhotoVoice by CDSC and MOPC. Forty-nine legislators or their staff attended the briefing. Centers at the briefing used the occasion to meet new legislators and longstanding supporters. Sometime later, 59 legislators demonstrated their support for community mediation funding by signing the Budget Request letter to the chairs of the Ways & Means Committees. Finally, MOPC and centers' budget advocacy bore fruit: the state budgeting process culminated in an appropriation of \$1,090,000 for the operation of the Grant Program in FY 2020.

C. PROGRAM DEVELOPMENT:

Program development was pursued under Grant Program auspices to attract funding support while expanding capacity to meet community needs.³ Operational funding is a scarce commodity in the philanthropy sector, and the Grant Program is a rare source of such funding for community mediation centers. While Grant Program funding is necessary to sustain center operations, it is not sufficient. Centers require additional sources of financial support for both center operations and to fund the operation of programming for particular issues and targeted populations. Given that sponsors' decisions about the recipients of their largesse usually depend on the match between their interests and the proposed initiative and that the option of including project operational costs may be available for grant requests, a Grant Program-funded youth development program as well as an outside-sponsored reentry mediation program with potential for future Grant Program support were implemented during FY 2019. MOPC continued to explore interest in an elder mediation project. Administrative responsibilities for developing and administering these program initiatives were financed out of MOPC's share of the FY 2019 appropriation for the Grant Program.

1. Youth program:

The public's perception of the importance of promoting positive youth development together with its concern over reducing youth violence⁴ impelled the development of a program focused on directly investing in youth projects through YPGs or Youth Project Grants in FY 2019. This latest youth-oriented Grant Program initiative built upon past Grant Program-supported youth-oriented community projects by imposing new eligibility parameters on projects, including requirements for an evidence-based explanation of the youth and community needs to be addressed, an emphasis on strengthening young people's abilities,

³ See MGL ch.75, §47(b) ("The office may advocate for funding and resources for the statewide program and for community mediation programming.")

⁴ See Eisenkraft, K.O. (2015, November 11). *Intervening in school-based youth conflict: Violence reduction, positive youth development, peer mediation and conflict resolution education*. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston. Retrieved January 5, 2020, from https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1014&context=mopc_pubs

a focus on conflict resolution or conflict prevention, and so on. As a result of the discussion of YPGs during the annual April Grant Program meeting with centers, certain parameters were adjusted: the provision of direct services to youth became an option rather than a necessity, facilitation and conflict coaching joined mediation as types of services that could be provided in a project, and the age range for youthful participants was changed from 10-24 years to 5-24 years. Centers interested in incorporating restorative justice practices into their youth project found the MOPC-sponsored webinar on restorative justice training useful. The youth program was supported by the increase in FY 2019 state funding. The aspiration underlying this youth-oriented programming was to develop a state-wide, scaled-up network of youth initiatives. (For a more details about the youth program, see the Appendix.)

2. Reentry mediation:

To meet the challenge of increasing public safety by reducing recidivism, a Massachusetts prisoner reentry mediation pilot program, modeled on a Maryland program,⁵ was set up by MOPC with funding from foundation grants. This reentry pilot entailed the mediation of discussions between soon-to-be-released inmates and persons in their personal support system in order to address matters of concern and formulate plans for the inmate's reentry into the community.⁶ Since its inception in FY 2018, the pilot program grew from two centers delivering services to inmates at a single correctional facility to five centers operating in six facilities. During FY 2019, CDSC, MMS, North Shore, MCC and TMTC offered mediation services to inmates and their respective personal support persons at MCI Framingham and correctional facilities in Franklin, Hampshire, Essex, Middlesex, and Suffolk Counties. Other centers and correctional facilities have expressed interest in joining this project. As a result of center efforts to raise awareness of the availability of reentry mediation services among prison staff and inmates, three centers received seven referrals for reentry mediation during the 2019 fiscal year. Since foundation backing, totaling \$80,000 over two years, will expire at the end of FY 2020, this program may receive financial coverage under Grant Program project grants in FY 2021 to allow for its continuation if additional state support materializes.

D. STRATEGIC PLANNING:

In FY 2018, MOPC and centers developed a framework for planning the actualization of a vision for a future in which fully-supported community mediation centers expand access to alternative dispute resolution services and foster thriving communities and equal access to justice throughout Massachusetts. Action plans that specify activities and benchmarks important to implementation strategies in the areas of funding, awareness, staff, and mediators were adopted in FY 2019 for further development by workgroups composed of MOPC and center personnel.

A focus on funding and awareness was prioritized in FY 2019 to make the most of time-limited opportunities. Accordingly, the awareness workgroup took advantage of MOPC's relationship with the Boston Foundation and worked with a marketing consultant and other experts from the Foundation's

⁵ Charkoudian, L. Cosgrove, B.I., Ferrell, D.P., & Flower, S.M. (n.d.). *The role of family and pro-social relationships in reducing recidivism*. Retrieved, October 10, 2017, from http://c.ymcdn.com/sites/naefcm.site-ym.com/resource/resmgr/Research/Role_of_Family_and_Pro-Socia.pdf

⁶ *Ibid.*

sponsored platform, Catchafire, on branding, logo design, and website construction to enhance the profile of community mediation in Massachusetts. “Resolution Massachusetts” was the chosen brand name. The funding group addressed the need for greater diversity in financial support for community mediation by exploring the possibilities of funding from the legislature and state agencies, from the court, and from corporate and private sponsors. Funding activities in FY 2019 were directed at the legislature – in the form of budget advocacy, at foundations – by way of grant applications for the prisoner reentry mediation program, and at the Trial Court - through participation in Trial Court projects involving contracts with centers for ADR services as well as contracts with MOPC that included center involvement with Trial Court-wide education, systems design, and piloting onsite mediation at the Probate & Family Court. As a result, significant new funding was generated for the Massachusetts community mediation system in FY 2019.

Meanwhile, the mediator and staffing workgroups continued to move forward under an extended timeline. The staffing group proposed to gather information about the feasibility of using student interns and volunteers from AmeriCorps (from either the national organization or its Massachusetts off-shoot) to reinforce center staffing and about different approaches to compensating employees, including restructuring salaries and benefit options. Centers’ staffing issues were also examined at the annual Grant Program meeting. The mediator workgroup began its investigation of options for better recruitment and retention of volunteers, including systematizing volunteer recognition and building a mutual volunteer support network that could include a social media platform (depending on the outcome of the ongoing controversy among workgroup members about using social media). MOPC, meanwhile, continued to contribute to mediator professional development by sponsoring trainings in reentry mediation, conflict coaching, restorative justice programming, and social media use.

E. FACILITATING CENTER AND PROGRAM ADVISORY COMMITTEE INVOLVEMENT IN THE GRANT PROGRAM:

The Grant Program’s enabling statute provided for an administrative structure that contained a program advisory committee (PAC) to monitor Grant Program progress and represent interests that included those of funded centers.⁷ Besides their role in this advisory body, centers’ explicit function in Program administration included advising on criteria and procedures for grant-making⁸ and furnishing data about budgets and available services for “monitoring, evaluation, and reporting purposes.”⁹ During FY 2019, the Grant Program Manager facilitated PAC and center contributions to program administration through meetings and other forms of communication in which information about Grant Program and center developments were shared and feedback and advice were sought.

1. Program Advisory Committee (PAC):

⁷ “The office shall establish a program advisory committee with balanced representation of interests, including representation of state-funded community mediation centers” (MGL ch.75, §47(b)) and “The office shall provide periodic progress reports to the program advisory committee” (MGL ch.75, §47(h)).

⁸ “The office shall consult with centers in establishing grant criteria and procedures” (MGL ch.75, §47(d)).

⁹ MGL ch.75, §47(h)

The Program Advisory Committee (PAC) – an advisory body for the Grant Program, composed of 11-12 community mediation supporters from centers, the courts, academia, social service organizations, among others – assisted MOPC with accountability and Grant Program-related issues that arose in FY 2019. Over the year, PAC members received brief, written quarterly updates about Grant Program activity, thereby addressing program accountability. Feedback and advice about Grant Program matters were sought from PAC members at meetings.

PAC heard about budget advocacy strategies, approaches to acquiring Grant Program funding, workgroup updates related to the strategic plan, program development and the inclusion of youth project grants in grant-making, and new MOPC-sponsored trainings, among other topics at its two FY 2019 meetings. Concern that holding an annual State House briefing event for state legislators had outlived its usefulness for Grant Program budget advocacy purposes was brought to PAC's attention at the Fall 2018 teleconference. A debate ensued, comparing the efficacy of local events with that of a large-scale briefing for maximizing constituent and legislator engagement. In the end, PAC recommended retaining the legislative briefing and, if desired, supplementing it with local events as forums for budget advocacy. MOPC noted that funds might be available to support local events. Mindful of this recommendation and after discussion with centers, MOPC held a legislative briefing at the State House in January 2019. At the Spring 2019 in-person PAC meeting, a discussion about strategic planning and the limited availability of operational funding for centers led one PAC member to advise integrating operational costs, needed for program implementation, into requests for project funding grants. In response to MOPC's description of steps taken to address centers' staffing needs, including the possible use of AmeriCorps volunteers, a PAC member mentioned AmeriCorps Legal Advocates of Massachusetts (run by South Coastal County Legal Services) which places AmeriCorps volunteers in organizations.

For the future, members indicated their preference for brief quarterly updates over the more detailed semi-annual informational memoranda that used to be sent before meetings and for in-person rather than telephonic meetings.

2. Funded centers (centers):

Communications between MOPC, in the person of the Grant Program Manager, and centers often consisted of an exchange of both information and assistance. During monthly group teleconferences, information and feedback about Grant Program matters were considered by the Grant Program Manager and centers. Although these teleconferences were not typically occasions for decision-making, groundwork was laid for decisions to be taken at a later date. Topics that were discussed included strategic planning developments such as progress in raising awareness through branding and prioritizing the launch of workgroups; participating in the Trial Court's ADR project; budget advocacy strategies; the incorporation of youth project grants into grant-making; and updates about the Probate & Family Court's on-site mediation project. At the Grant Program's annual meeting with center directors in April 2019, grant application issues, particularly those relating to the youth project grants, were examined and agreement was reached about changes. The peer consultation session at the April meeting looked into centers' staffing issues, providing useful information for the staffing workgroup. Individual-level communications included mid-review calls during grant-making which led to guidance from the Grant Program Manager when needed, coaching around SMART goal writing, orientation for new center directors, and center reports of

difficulties with MADtrac that prompted software updates to allow entry of restorative justice and conflict coaching data.

F. REPORTING:

FY 2019 Grant Program accountability was fulfilled upon the presentation of quarterly Grant Program progress updates from the Grant Program Manager to PAC and the submission of an annual program evaluation report that detailed the operations, activities, and accomplishments of the Grant Program and funded centers to the governor, chief justice, and legislators. The annual report, produced by the MOPC Research Unit, was based on information about center activities from center responses to a year-end survey conducted some months after the end of the fiscal year, data entered by centers onto MADtrac, centers' FY 2020 grant applications, and internal office records.¹⁰ The annual program evaluation report also included an analysis of the economic impact of the Grant Program.

III. IMPACT OF GRANT PROGRAM GRANTS ON CENTERS

A. IMPACT ON CENTERS:

Operational funding was awarded under the Grant Program to sustain centers and support their activities for the benefit of Massachusetts residents and communities.

1. Description of funded centers:

a. Profile of centers:

The twelve centers that qualified for FY 2019 Grant Program operating grants were local grass roots organizations that responded to the dispute resolution needs of their communities by providing affordable mediation and other conflict resolution services along with educational and training opportunities in conflict management. Half the centers were independent non-profits, one center was a non-profit affiliated with a social service agency, and five centers were attached to parent organizations, including a regional housing authority, a community college, and several social services organizations dealing with mental health needs, family-oriented services, and anti-poverty measures (see Table 2).

b. Centers' workforce in FY 2019:

¹⁰ Discrepancies in the data used in this annual report may have arisen because of the different methods for tracking and recording center activities (e.g., via MADtrac and surveys), the varying degrees of center expertise and diligence in using MADtrac and responding to surveys, the timing and context of data collection, software issues, etc. Inconsistencies in the data were acknowledged in the report where relevant.

Centers served their communities via a labor force that consisted of a combination of paid and volunteer workers, with paid employees heavily outnumbered by volunteers.

i. Centers' paid employees:

According to survey responses, centers as a whole retained 29 full-time and 30 part-time paid employees, averaging 2.4 full-time staff members and 2.5 part-time staff per center. The full-time staff average situated centers in the mainstream of community mediation centers where, across the country and during the last few years, “most centers had the equivalent of 2 or 3 full-time paid staff...”¹¹ Yet staffing issues confronted several centers in FY 2019. Martha’s Vineyard, for one, faced the challenge of both familiarizing a new staff member with the center’s case management software and hiring a new program coordinator. TMTC, for another, found it challenging to fill its District Court coordinator position, which was described by the center as “very part-time with minimal pay and requir[ing] significant skills.” As a whole, although staff hours increased at many of the centers (at ten), staff turnover also rose at half the centers (six) albeit remaining stable at five and irrelevant at one. Nonetheless, the need for additional staffing as well as staff salaries and benefits were among the three most important needs cited by a majority of seven centers.

Going forward, most centers planned to stabilize their employee situation by increasing salaries (seven centers) or restructuring positions or hours on an as-needed basis (eight centers). Half the centers proposed to increase employees’ work hours. Centers also agreed to collectively address their employee situation through a Grant Program workgroup set up to help them more effectively utilize their human resources.

Centers’ financial resources factored into their deployment of personnel. The six centers whose staff grew and the ten centers that experienced an increase in staff hours credited their Grant Program grants for the gains made for their employees. And at one center, because of funding support, arrangements were in train to bolster center operations by reducing its reliance on consultants in favor of hiring more staff.

ii. Centers' volunteers:

Volunteers were vital to linking centers to the community and to implementing centers’ business model. Volunteers burnished the connectivity between centers and the community when the labor volunteered by community members contributed to social harmony by way of volunteer participation in the delivery of centers’ dispute resolution services to other community members. The commitment to low cost services, which was integral to the business model governing center operations, constrained centers’ ability to generate revenue. Volunteers played a vital role in that model by providing free labor that lowered centers’ labor costs thereby supporting the centers’ economic viability.

¹¹ These statistics were generated by an on-line survey of 121 US and three Canadian community mediation centers conducted by NAFCM. See Washington, F, Mawn, D.G., & Shedd, J. (2019). *State of Community Mediation 2019*, Louisville, KY: National Association for Community Mediation (NAFCM). Retrieved December 2, 2019, from <https://www.nafcm.org/page/StateofCommunityMediation2019?&hhsearchterms=%222019+and+state+and+community+and+mediation+and+report%22>

FY 2019 data about center volunteers was collected through both MADtrac and the survey. The reported headcounts of center volunteers varied with the source and with the classification of the data. MADtrac volunteer mediator and administration numbers were consistently higher than comparable survey numbers. Even so, the MADtrac average of 34 volunteer mediator and pro bono staff mediators per center¹² fell short of a recently reported five-year old national statistic for the average number of volunteer mediators per center – namely, 50 volunteer mediators per average mediation program.¹³ It is unclear whether these 2013 national numbers are applicable to 2019 since, according to a 2019 report about community mediation programs, the years between 2015 and 2018 were marked by a downturn in volunteerism at a plurality of surveyed programs: 38% of the programs reported a decrease in their volunteer numbers, 32% of programs reported no change in their volunteer numbers, while 30% experienced an increase.¹⁴ For comparison purposes, the 2013 statistics will be used in the absence of more current published information.

On the Grant Program survey, centers indicated that 14 staff members and 338 active mediators were volunteers, suggesting a total of 352 center volunteers, which averaged out to 1.2 volunteer staff members and 28.2 volunteer mediators for a combined average of 29.3 volunteers per center. Based on MADtrac entries though, 472 volunteers were active at centers, at an average of 39.3 volunteers/center. When volunteers were classified by their work role, 377 volunteers functioned as mediators at an average of 31.4 active volunteer mediators per center; and administration was performed by 238 volunteers at an average of 19.8 volunteer administrators per center. If the category of volunteer mediator is understood to include staff and board members who offered pro bono mediation services, then there were 412 persons (averaging 34.3 per center) who volunteered to mediate. As a group, volunteer mediators along with pro bono staff and board member mediators contributed 9,257 mediation hours valued at \$323,810 to centers according to 2018 labor statistics¹⁵ Similarly, with the addition of staff, board members, and interns who acted as pro bono administrators, 285 people (averaging 23.8 per center) volunteered to perform administrative tasks at the centers and spent 17,556 hours on administrative work worth between \$210,672 (based upon the Massachusetts minimum hourly wage) and \$396,239 (based upon labor statistics for the

¹² Three hundred seventy-seven active volunteer mediators, 20 staff pro bono mediators, and 15 board pro bono mediators volunteered mediator services at the 12 centers, averaging 34.3 volunteers mediating at each center.

¹³ The National Association of Community Mediation (NAFCM) presented the statistic of 50 volunteer mediators per average mediation program in its report on the state of community mediation across the country in 2019 and cited the 2013 work of Corbett & Corbett as the basis for this number. (Washington, Mawn, & Shedd, (2019), *ibid.*, citing Corbett, J. R., & Corbett, W. E. H. (2013). *Volunteer mediators: The composition, contribution & consequence of ADR altruists*. Retrieved December 5, 2019, from https://cdn.ymaws.com/www.nafcm.org/resource/resmgr/State_of_Community_Mediation.pdf

¹⁴ Washington et al., 2019, *op. cit.*

¹⁵ Contribution of 9,257 hours of mediating from mediator volunteers and pro bono mediators & board members at the mean national wage for mediators of \$34.98 per hour provided \$323,809.86 in value to centers. Because the mean hourly wage for mediators in the Boston-Cambridge-Nashua metropolitan area was unavailable, this calculation relied upon the national hourly mean wage for mediators presented by 2018 labor statistics. See US Bureau of Labor Statistics. Occupational Employment and Wages, May 2018: 23-1022 Arbitrators, Mediators, and Conciliators. Retrieved December 24, 2019, from <http://www.bls.gov/oes/current/oes231022.htm>

average hourly wage for administrative assistants in 2018).¹⁶ Together, volunteers saved centers between \$534,482 and \$720,049 in labor costs.

Since the number of volunteers who performed both mediation and administration tasks was not tracked and the extent of the impact of staff turnover at six centers on center personnel was not documented, it cannot be determined whether these factors or some other set of circumstances, including error, accounted for the disparities in centers' volunteer numbers from the different data collection methods. Irrespective of the reasons for the variation in centers' volunteer numbers, mediator recruitment and retention were among the three principal needs cited by a majority of seven centers. At CDSC, for instance, a bilingual volunteer left for full-time paid employment. Centers' concerns about their volunteer situation comport with the downturn in volunteer mediator numbers experienced by the aforementioned 38% of community mediation programs across the nation.

Centers engaged in multiple efforts to recruit and retain volunteers during FY 2019. Outreach efforts increased the number of volunteer mediators at eight centers and volunteer staff members at two centers but left the amount of volunteer mediators at four centers and volunteer staff at eight centers unchanged. (See section IV(B)(5)(a) for more information about center outreach initiatives.) According to most centers, Grant Program grants were instrumental in supporting their recruitment initiatives. The number of active volunteer mediators increased at nine centers and stabilized at three centers as a result, in part, of their grants.

Meanwhile, center adoption of effective retention practices was ongoing. Theoretical- and research-based evidence indicates that successful volunteer retention strategies include recognizing volunteers' work,¹⁷ providing opportunities for training and professional development,¹⁸ and promoting relationship-building among volunteers.¹⁹ At the individual center level, all centers provided training for mediators and offered them access to continuing education. All centers but one provided advanced mediation training as well. (See section IV(B)(10) for more information about the training and education offered by centers to mediators.) At least two centers organized activities to recognize the contributions of their volunteers, e.g., the volunteer appreciation event held by Cape Mediation. In terms of volunteer relationship-building, several centers fostered communication among mediators about their work. BCRHA hosted a luncheon at which mediators shared mediation stories. CDSC mediators recounted their experiences with case challenges and effective practices at two 'Mediator Round Tables,' and, on their own initiative, six CDSC mediators formed a book club that met quarterly to discuss books about matters relevant to mediation

¹⁶ The contribution of 17,556 hours of administrative work from volunteer and pro bono staff, board members, and interns for the 2018 MA minimum wage of \$12/hour saved centers at least \$210,672. At a mean hourly wage of \$22.57 for work from secretaries and administrative assistants in office and administrative support occupations reported by the Bureau of Labor Statistics in 2018, the value of the 17,556 hours of volunteer administrative work would be \$396,239 (See US Department of Labor Statistics. (May 2018). Retrieved January 22, 2020, from https://www.bls.gov/oes/2018/may/oes_ma.htm#43-0000)

¹⁷ Hager, M.A. & Brudney, J.L. (2004, June). *Volunteer management practices and retention of volunteers*, The Urban Institute. Retrieved December 25, 2019, from https://www.nationalservice.gov/pdf/Management_Brief.pdf

¹⁸ Hager & Brudney, 2004, June, *ibid*.

¹⁹ Reamon, S. (2016). Managing volunteers: Recruitment, retention, and relationship building." *SPNHA Review*, 12:1, 74-95. Retrieved December 25, 2019, from <https://scholarworks.gvsu.edu/cgi/viewcontent.cgi?article=1053&context=sphareview>)

practice. Greater Brockton held a meeting where six mediators and the program coordinator described their best and worst experiences as well as lessons learned. And at TMTC, peer support and reflection were part of the quarterly coffee breaks attended by court mediators and the Court Mediation Coordinator. Together, MOPC and centers established a workgroup to examine volunteer retention practices relating to recognition and relationship-building.

2. Financial impact of Grant Program grants on centers' economic viability:

Grant Program grants were important to the economic viability of centers and their continued functioning. Centers' economic existence heavily depended on a mixture of grants and donations from the public and private sectors since center earnings from fees for dispute resolution assistance, trainings, and other sources were minor. A large majority of ten centers affirmed that the sustainability of the center increased because of Grant Program grants. Only two centers found that their grants did not affect center sustainability. Budget reports from centers indicated that their collective income in FY 2019 was \$2,446,250. The three largest contributors to center coffers were from the public sector, accounting for \$1,541,265 or 63% of total center income. In particular, MOPC funneled legislature appropriations of \$785,600 to centers as unrestricted operation funding through the Grant Program; the Attorney General's Office (AGO) added \$413,000 for center participation in its Face-to-Face consumer program, and the Trial Court compensated centers \$342,665 for their court ADR work. Mediation fees (totaling \$36,746), training fees (totaling \$79,642) and other earned income (totaling \$122,574) generated \$238,962 in revenue to centers, comprising 9.8% of centers' overall annual income.

On the whole, Grant Program grants were the single largest source of center income. The \$785,600 awarded to centers made up 32% of centers' collective income of \$2,446,250. On the individual center level, center incomes ranged from \$88,537 to \$390,160, and averaged \$202,166 of income per center. Grant amounts awarded to individual centers ranged from \$44,820 to \$80,790. As Table 3 shows, centers with the most income received the largest grants even though income was not a criterion for grant awards. Otherwise, there was no direct correspondence between award amount and center income. The share of individual center income constituted by their specific grant award ranged from 15% to 67%, for an average 36.8% per center. The impact of the Grant Program grant, as measured by the proportion of center income attributable to the grant award, was greatest for the center with the least income, smallest for the center with the largest income, and variable for the other ten centers.

Table 3. Grant amounts awarded by number of funded centers and their annual incomes

Awarded Program grants	Number of awardees	Range of awardees' annual incomes
\$55,000 and below	2 centers	\$113,820-\$124,044
\$56,000-\$65,000	6 centers	\$86,537-\$223,297
\$66,000-\$83,005	4 centers	\$228,348-\$287,550

3. Center performance in FY 2019:

Centers dealt with 4,100 cases in FY 2019. The year began with 139 pending cases, which were joined by 3,961 newly opened cases during the rest of the year (see Table 4).

Table 4. Center performance in FY 2017 to FY 2019.

Mediation action	FY 2017	FY 2018	FY 2019
New cases opened	4,329	4,020	3,961
Intakes performed	4,314	4,013	3,865
Mediations conducted	3,642	3,423	3,334
Agreements reached	2,577 (71% agreement rate)	2,521 (74% agreement rate)	2,423 (72.7% agreement rate)

The quantity of referred cases newly opened in FY 2019 continued the multiple-year decline in centers' caseload (see Table 4). However, in comparison to the previous two fiscal years, the rate of decline in cases slowed in FY 2019 to a decrease of 59 fewer new cases, which amounted to a minor reduction of 1.6% since the previous year, a reduction that was notably smaller than the 7.1% decrease in cases from FY 2017 to FY 2018. However, the reduction in the number of new cases in FY 2019 rippled through centers' subsequent mediation activities, resulting in intake, mediation, and agreement numbers that were smaller than previous years. In FY 2019, 86.3% of 3,865 cases that went through intake were mediated and 72.7% of the 3,334 mediated cases resulted in agreements (see Table 4).

The downward trend in the quantity of cases handled by centers in FY 2019 paralleled the trend in case filing numbers at the Massachusetts Trial Court. In FY 2019, case filings in all 11 categories of case types across the seven Court Departments were fewer than the previous fiscal year. Specifically, the lower number of cases filed in eight of the 11 categories – viz., in civil-regular, civil-specialized matters, CMVI hearings, other hearings, juvenile matters, probate, guardianship, and domestic relations – outweighed the filing increases in the categories of criminal matters, child welfare and adoption, and appeals.²⁰ Among the Court Departments that usually referred cases to centers, filings since FY 2018 were lower by 1.5% in the Probate & Family Court, 17.3% in the Juvenile Court, 6% in the Boston Municipal Court, and by 5.7% in the District Court. At the District Court in particular, the 18.4% reduction in regular civil cases encompassed decreases of 11.4% in small claims, 21.2% in summary process, and 21.7% in juvenile matters. In contrast, the Housing Court experienced a 1.2% uptick in case filings during FY 2019, which might have been due in part to the diversion of housing cases from the District Court to the Housing Court. The removal of housing cases from the District Court's caseload might also account for the five-point drop in the share of housing cases handled by centers in FY 2019, a change that deviated from the relative stability in the proportion of centers' cases in their other major dispute categories of business, family, and school (see Table 5).

²⁰ See Trial Court Statistics for Fiscal Year 2019, retrieved December 30, 2019, from <https://www.mass.gov/lists/trial-court-statistics-for-fiscal-year-2019#district-court-department->

Table 5. Percentage of closed cases in dispute category by fiscal year.

Dispute categories	FY 2017 (n=4358)	FY 2018 (n=4043)	FY 2019 (n=3895)
Business	58%	60%	61%
Housing	16%	16%	11%
Family	11%	10%	10%
School	9%	8%	9%

IV. IMPACT OF GRANT PROGRAM GRANTS ON THE COMMUNITY

Massachusetts communities and members of the public were impacted by Grant Program grant-making insofar as they were the beneficiaries of Grant Program-funded center activities.

A. RECIPIENTS OF CENTER SERVICES:

An estimated 8,200 parties in referred cases – calculated as two parties per case for 4,100 opened and pending cases – or 7,839 parties in closed cases received some form of mediation service from centers. People from around the state were served by centers. Centers assisted parties from as few as 12 to as many as 102 cities and towns in the state.

1. Party diversity:

Besides geographical diversity, parties were also diverse with respect to race/ethnicity and income. Seven centers provided dispute resolution services to a more diverse population, with a greater number of population groups served than the previous fiscal year. Cape Mediation, for instance, strove to expand the use of mediation by low-income youth by subsidizing the registration fees of four staff members from the MassHire Cape and Island Career Center – an organization that helped high school dropouts earn their GED – for the center’s four-day intensive mediation skills training, which included a focus on improving communication with students. The increase in client diversity applied as well to low-income and underserved groups: at seven centers, the expansion of their services to these groups was reinforced by Grant Program grants. However, service to low-income and underserved population groups was unaffected by Grant Program grants at four centers and was negatively impacted at one center.

Parties were often wary about furnishing demographic information. BCRHA, for one, observed a greater willingness on the part of parties to evaluate mediation than to provide demographic information. Whereas 239 parties submitted an evaluation of their BCRHA mediation experience, only 166 reported on their race/ethnicity and even fewer parties – 113 – identified their income level. For all centers, 56% of 7,831 parties (that is, 4,420 parties) specified their race or ethnicity, which suggests that the elicited responses may not represent the group of centers’ served parties in its entirety. Notwithstanding this incomplete response rate, every featured racial/ethnic category – American Indian/Alaskan native, Asian,

African-American/Black; Hawaiian/Pacific Islander, Hispanic/Latin American, White, Multiple, and Other – was represented among the parties surveyed. Of the 4,420 parties who identified their race/ethnicity, the vast majority or 86% (2,805 parties) self-identified as white while minorities of 15% considered themselves Hispanic/Latino, 12% were African-American/Black, and 4% were Asian. Parties were even more reticent about sharing their financial information. Despite the very low response rate of 18%, survey data showed that parties at all income levels, from \$0 to over \$65,000, were served by centers during the 2019 fiscal year.

2. Mediation benefits accruing to parties:

By engaging in mediation to resolve their dispute, parties presumably get an opportunity to reduce conflict, settle their dispute to their mutual satisfaction, and mitigate relationship damage.²¹

a. Reaching agreements:

Parties in 2,423 cases completely or partially resolved their disputes as a result of mediation. Out of 3,334 mediated cases, 72.7% were settled (see Table 4). An overwhelming majority of 94.6% of the agreements fully resolved the controverted issues, 4.2% resolved some of the issues, and 1.2% comprised telephone or other agreements. This 72.7% agreement rate was in line with agreement rates ranging from 66% to 80% achieved by other mediation programs.²² Agreements in consumer and landlord-tenant disputes mediated by the 12 centers resulted in \$3,722,313 returned to aggrieved parties.²³

b. Party assessment of the mediation process:

Over the 2019 fiscal year, 4,637 parties provided survey feedback about mediation, comprising a 59% response rate (out of a total of 7,835 parties in closed cases). These responses may underreport the reactions of dissatisfied parties since, on occasion, mediators at some centers purportedly refrained from distributing the party feedback survey when parties' hostility was unabated at mediation's end.²⁴ Nevertheless, large majorities of these respondents indicated satisfaction with (90%), preference for (76%), and willingness to recommend (89%) mediation.

c. Party feedback about mediation's impact on conflict and party relations:

²¹ Wilkinson, 2001, *op. cit.*; Wissler, 1995, *op. cit.*

²² Community mediation agreement rates of 66% per 100,000 disputes were reported by Gazley, B., Change, W. K., & Bingham, L. B. (2006). Collaboration and citizen participation in community mediation centers. *Review of Policy Research*, 23:4, 843-868; "Nearly 70% of all cases sent to mediation result in settlements that day." State Bar of Michigan, Alternative Dispute Resolution Section. (2015). Mediation Works! Retrieved January 10, 2020, from <http://connect.michbar.org/adr/home/mediationworks>; and assuming that when nearly 20% of disputes reached no agreement, the remaining 80% or so reached some agreement: "However, when community mediation services began, a full agreement was the outcome of community mediation services over 60% of the time; a partial agreement was the outcome of community mediation services less than 40% of the time; and no agreement was reached less than 20% of the time." Washington et al., 2019, *op. cit.*, p. 10.

²³ Martha's Vineyard, which did not participate in the AGO's consumer mediation program, was responsible for \$29,944 of this sum.

²⁴ Conversations with other program directors led MMS to conclude that "similar to MMS, other program mediators experienced and reported tensions when mediations ended with acrimony. In these cases, some programs chose to dispense with the additional stressful process of distributing, taking time for completion, and collecting evaluation data."

To measure the effectiveness of mediation by way of its impact on parties, questions about changes in the parties' situation following mediation were added to centers' post-mediation surveys of parties. As for party assessment of the impact of mediation, reliable data was not available until the fourth quarter of FY 2019 when data collection became consistent.

According to 940-970 survey respondents, during the fourth quarter, mediation's impact on specified circumstances was positive for sizable minorities of parties (see Table 6). Over 40% of parties reported decreased conflict/tension (48% or 460 parties), and improvements in communication (46% or 449 parties) and in dispute management (43% or 405 parties). About one-third of responding parties indicated that their relationship with and opinion of the other party had improved. The status quo for these circumstances was undisturbed by mediation for sizable minorities of 34% to 48% of parties. At most, only 12% of parties regarded mediation as inapplicable to the specified circumstances, thereby implying that a large majority of parties considered mediation relevant for such matters as conflict/tension reduction, party communication, dispute management, and reactions towards the other party, such as relationship with and opinion of other party. Small minorities of 8% or less found that mediation's impact on these particular circumstances was negative.

Table 6. Mediation impact on parties:

When you compare your situation before and after mediation, how has the mediation affected you?	Decreased	Increased	Stayed the same	Not applicable
Conflict and/or tension about matters discussed in mediation have (n: 956)	460 (48%)	60 (6%)	324 (34%)	112 (12%)
	Improved	Worsened	Stayed the same	Not applicable
Communication between you and the other party has (n: 970)	449 (46%)	37 (4%)	396 (41%)	88 (9%)
Your relationship with the other party has (n: 947)	307 (32%)	51 (5%)	451 (48%)	111 (12%)
	Increased	Decreased	Stayed the same	Not applicable
Your ability to handle disputes has (n: 940)	405 (43%)	28 (3%)	405 (43%)	102 (11%)
	Improved	Worsened	Stayed the same	Not applicable
Your opinion of the other party has (n: 943)	309 (33%)	71 (8%)	457 (48%)	107 (11%)

B. ACTIONS TAKEN BY CENTERS FOR THE BENEFIT OF PARTIES AND THE COMMUNITY

Centers served the community by engaging in activities that accorded with the standards presented in the Twelve-Point Model of Community Mediation.

1. Engaging with the Trial Court:

The statutory mission of the Grant Program to broaden access to community mediation was carried out by centers. Funded centers provided ADR services in every county in the commonwealth during FY 2019 (see Table 2). The geographic breadth of their services was largely achieved through the relationship between centers and the Trial Court.

a. Center coverage of Massachusetts courts:

ADR providers like the centers needed approval from each court Department in which they proposed to offer services. For the first time in some years, all seven Court Departments approved at least one center for ADR service in 2019 (see Table 7). Previously, no center had obtained Housing Court approval. Recent Housing Court approval of BCRHA and FSCM as ADR service providers was notable in light of the Housing Court's history of relying on its specialists to offer mediation to litigants, and only turning to outside providers in the event of technical issues beyond the ken of its specialists. All the centers provided ADR in the District Court Department and most were available to serve in the Probate & Family (66.6% or eight centers) and the Juvenile Court (66.6% or eight centers) Departments, and in the Superior Court (58% or seven centers).²⁵ Since 2016 every center provided ADR services in a minimum of three courts.²⁶ Around 62% of the court Divisions were covered by centers. There were some changes in coverage in FY 2019 – MetroWest expanded its services to the Probate & Family Suffolk court and to the Superior Court in Middlesex, and MCC extended coverage to the Middlesex Juvenile Court while limiting its Superior Court service to the Middlesex Court in Lowell. Among the approved centers, MMS was available to provide ADR services in the greatest number of courts (22).

Table 7. Trial Court Departments & Divisions served by funded centers in FY 2019

Court Departments	Total Number of Divisions	Number of Divisions that involve funded centers	Number of funded centers involved with Divisions
Boston Municipal Court	8	8	2
District Court	62	38	12
Juvenile Court	11	7	8
Probate & Family Court	14	10	8
Superior Court	14	6	7
Land Court	1	1	1
Housing Court	6	2	2
Total	116	72	n/a

²⁵ To date, the 2019-2021 list of court-approved ADR programs was not issued so relevant information was furnished by centers

²⁶ *Ibid.*

b. Compensated center court participation:

Centers, as court-approved ADR providers, were not compensated by the court for their court-ADR services since 2009, and their ability to receive payment for their service from parties was constrained by the District and Juvenile Court's proscription against ADR service fees. The impact that a center's financial situation can have on a center's activity at court was demonstrated when a funding shortage limited one center's services in Juvenile Court. However, centers' court service became more financially rewarding in 2019 when the Trial Court received additional state funding for court ADR. The Trial Court distributed a portion of the ADR funding to court-approved ADR service providers, with centers receiving a total of \$342,665. The court's ADR money was also used to provide allocations to courts to support their utilization of ADR and to fund a court-wide educational initiative. MOPC and centers contributed to the success of these ventures and were compensated in some instances for their services.

The Probate & Family Court Department, for example, launched a new ADR project, administered by MOPC, under an interdepartmental services contract funded by the Trial Court. Drawing on guidance from MOPC, TMTTC, North Shore, and others with expertise in project design and management and in family mediation, an on-site mediation pilot was set up at court sites in Middlesex/Cambridge and Essex/Salem to provide free mediation services from CDSC, MetroWest and North Shore to parties in cases referred by judges and by Department of Revenue (DOR) attorneys. Although the disputes to be resolved included parenting and child welfare issues as well as child support, the DOR-referred cases in particular omitted child support and paternity claims. During the four months of project activity in FY 2019, 75 cases were referred, 41 cases were mediated, and 36 agreements were achieved. Participating centers were reimbursed a combined \$48,000 for their services.

The Trial Court embarked on a system-wide educational project on court ADR in FY 2019. MOPC was contracted to implement the endeavor by delivering a conference, facilitating the work of the Education Subcommittee of the Standing Committee on Dispute Resolution, and conducting and reviewing research on court-connected ADR. Centers played a crucial role in effectuating conference logistics and received 50% of the contract fee for their work (less university overhead). The participation of MOPC and centers may well have reinforced their relationship with the Trial Court and heightened court awareness and appreciation of centers' work.

c. Center caseload of court-referred and non-court-referred cases:

In any event, court-referred cases accounted for the greatest share of centers' caseload by far. From FY 2017 on, the share of court-referred cases in centers' collective caseload of FY 2019 opened cases was relatively constant, approximating 85%. Similarly to the previous two years when the proportion of court- and non-court-referred closed cases in centers' caseload hovered a bit below 85% and 15%, respectively, nearly 82% of centers' closed cases in FY 2019 were referred by the courts, and 18% came from non-court sources (see Table 8).

Table 8. Court- and non-court referred closed cases, FY 2017-FY 2019.

Mediation action	FY 2017	FY 2018	FY 2019
Closed cases	4,359	4,023	3,901
Court-referred cases	3,576 (82%)	3,381 (84%)	3,203 (82.1%)
Non-court-referred cases	783 (17.9%)	642 (16%)	698 (17.9%)

In FY 2019, nearly 4,000 cases (i.e., 3,961 cases) involving almost 8,000 parties were transferred by the courts to centers for dispute assistance. And so, the relationship between centers and the court system redounded to the benefit of both. Courts were able to lighten their caseload without depriving litigating parties of dispute services while centers could deploy their services more widely and reach large numbers of disputing parties. The litigants who received ADR from centers were the ultimate beneficiaries.

2. Providing mediation services at any level of conflict intensity:

Disputes involving intense conflict are less likely to get resolved.²⁷ Nevertheless, centers provided mediation services to settle disputes irrespective of the level of conflict intensity involved, including disputes with high levels of conflict as well as those attended by intermediate or low levels of conflict, and even disputes with only the potential for conflict. As MSI noted: “many of our conflicts are intermediate level by the time parties contact us, but we offer mediation services at any point in the conflict, including when tensions are particularly high or for prevention and planning.” North Shore’s statistics for the conflict levels in its cases aligned with MSI’s experience: high conflict characterized 1% of North Shore cases, intermediate conflict attended 91% of cases, and 7% of cases had low conflict levels.

Overall, the level of conflict in the vast majority of the 3,870 cases handled and closed by centers in FY 2019 was intermediate in intensity (in 86% or 3,339 cases). Disputes that reached the courts were automatically classified as involving intermediate conflict, and nearly all or 96% of the 3,339 cases (that is, 3,203 cases) that were identified as intermediate conflict were referred by the courts. Cape Mediation reported that in the cases referred by the courts for mediation, “the voluntary participation of the disputants in the mediation usually ensures an immediate de-escalation of the level of conflict, as participants realize the success of the process is under their control.” Parties in cases with conflict levels at either end of the conflict intensity spectrum called upon centers’ services infrequently. Seven percent of centers’ closed cases (or 279 cases) involved low levels of conflict. In a comparable portion of the closed cases – 6% or 248 cases – the accompanying conflict level was high. In one example of the different ways that centers rose to the challenge of mediating high conflict disputes, FSCM accommodated the intense conflict in a

²⁷ Conflict intensity may affect the outcome of mediation since high party conflict tends to lower the probability of agreement in mediation (Ballard, R.H., Holtzworth-Munroe, A., Applegate, A. G., & D’Onofrio, B. (2011, January). Factors affecting the outcome of divorce and paternity mediations. *Family Court Review*, 49:1, 16-33).

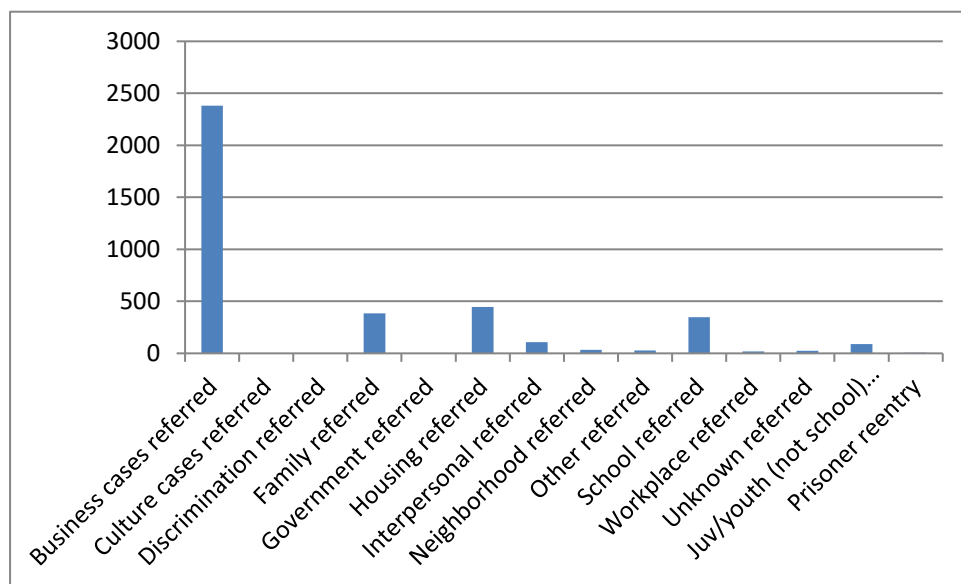
divorce case that included a restraining order by conducting a mediation in which the parties did not meet face-to-face and putting security on standby.

Centers’ strategy for preventing potential conflict from developing into actual conflict relied less on mediation than on education and training to strengthen people’s ability to forestall and manage conflict. The portion of FY 2019 closed cases where conflict was just a potentiality was tiny, encompassing 0.01% or four cases. Centers’ education and training initiatives reached a wider audience in FY 2019 than did the mediation of the four potentially conflictual cases. Consider: Greater Brockton helped to enhance the community’s capacity for dispute resolution by providing training in effective communication and de-escalation techniques for conflicts arising from shell fishing regulations to constables at the Massachusetts Wildlife & Fisheries Department. TMTC’s work in facilitation, conflict coaching, training, and restorative practices was directed at teaching “problem-solving skills to prevent conflicts or address them early before they escalate” to schools, municipal bodies, community organizations, and members of the public. In a similar vein, Martha’s Vineyard designed “public programs and workshops to help the community anticipate and avoid conflicts,” as exemplified by its landlord/tenant forum where “landlords and tenants anticipate common problems and avoid litigation.”

3. Striving to serve more types of disputes:

Centers endeavored to fully meet the conflict resolution needs of the community by addressing a wide-ranging assortment of disputes through various non-adversarial dispute resolution methods. The twelve community mediation center awardees offered mediation services in 14 categories of disputes (see Figure 1).

Figure 1. Quantity of cases referred to centers for ADR services by dispute type.



Out of 3,895 referred cases, a sizable majority of 61% (or 2,382 cases) involved business issues, largely involving disputes in the sub-categories of business/service/trade – 575 or 20% of business cases referred – and landlord/tenant – 619 or 22% of referred business cases. Another third or 33% of cases dealt

with disputes over family matters (384 cases), housing (447 cases), school (347 cases), and interpersonal issues (107 cases). The juvenile category, consisting of 88 cases, included delinquency and harassment issues among others. During FY 2019, CDSC expanded services to Juvenile Court for Harassment Prevention Order cases. Besides Harassment Prevention Order cases, MCC also dealt with delinquency cases. After a discussion between MetroWest and the Framingham Juvenile Court about the value of mediation led the judge to routinely recommend that parties in Harassment Prevention Order cases consider mediation, MetroWest observed an increase in the mediation rate of Harassment Prevention Order cases from a pre-recommendation 33% (two of six referred cases refused mediation) to a post-recommendation rate of 100% (all five referred cases agreed to mediate). In all, MetroWest received referrals for 19 juvenile cases, including a Care & Protection case that involved a guardianship dispute. To support center efforts to expand their services to a broader range of disputes, MOPC sponsored several trainings. Prisoner reentry issues were added to centers' dispute portfolio following the development of a prisoner reentry mediation program run by MOPC and funded through private foundation grants. Center mediators participated in reentry mediation training offered under MOPC auspices early in 2018, and subsequent refresher training in September 2018. Cases involving issues regarding culture, discrimination, government action, and prisoner re-entry were the least frequent (barely registering in Figure 1), ranging from zero (culture) to seven cases (prisoner reentry).

4. Expanding the types of dispute resolution services offered:

Services offered by centers to help to address disputes through non-adversarial means included conciliation, restorative justice, coaching, and facilitation in addition to mediation. As such, centers were in alignment with a trend emerging among community mediation centers across the nation of enlarging their portfolio of dispute resolution services with facilitated dialogues, restorative justice practices, and conflict coaching.²⁸

BCRHA, in particular, ran a program that utilized a range of conflict resolution services. Through its Family/School Program, BCRHA continued to offer on-site mediation, restorative practices, and conflict coaching to students, teachers, and families for student-student issues and parent-teacher issues at a middle school, and expanded the program to an elementary school, where 84% of students were “economically disadvantaged.” Cape Mediation offered civil conciliation services free of charge twice a month at Barnstable and Orleans courts. Martha’s Vineyard not only “provided facilitation/consulting services to four non-profits this past year related to Board interrelationships and workplace issues,” it also provided conflict coaching to two clients and led a restorative justice circle that resulted in the parties’ agreement. In order to increase public awareness of these services, Martha’s Vineyard notified the region’s police about the availability of its facilitation and restorative justice services. North Shore was asked by a private school that was confronted by the problem of fifth-grade bullying to provide training in the restorative practice of circles to teachers and staff as a means of “creating a more supportive community” and prevent future bullying. On the MADtrac record, three centers provided conflict coaching in ten cases; two centers facilitated discussion in four cases; and restorative practices were used by three centers in

²⁸ Washington, Mawn, & Shedd, 2019, *op. cit.*

eleven cases. Center proficiency in conflict coaching was enhanced when interested center mediators took advantage of a three-day training in conflict coaching sponsored by MOPC in March 2019. A “peer-led discussion” about “developing conflict coaching programming” was held in April 2019. A teleseminar on setting up a restorative justice program was offered in September 2018.

5. Educating the community about conflict management:

Centers were persistent about raising the public’s awareness of ADR and the availability of center services. A group effort to raise public awareness of community mediation was led by a workgroup that focused on developing measures to better market community mediation services and centers. Moreover, all 12 centers conducted trainings, made presentations, and had websites. Nearly all, that is, 11 centers, distributed informational materials and had a presence on social media. And a robust majority of ten centers held workshops and engaged in conferences.

a. Centers’ outreach activities:

As for center initiatives to reach out to the public, 8,242 people attended outreach/education activities according to centers’ survey responses. When, as indicated on MADtrac, the data concerned outreach and education participants and not just attendees, 21,097 people took part in 557 activities: 19,260 participated in 446 outreach events and 1,837 people participated in 111 community education activities. Possibly, the larger participation number registered on MADtrac arose from the inclusion of the media audience among its outreach participants by some centers. TMTC, for instance, claimed at least 30,000 contacts of nearly 14,000 people through press releases, newspaper articles, direct mail, distribution of informational literature, and announcements on Facebook and at 53 small claims court sessions, etc. Other centers did not include their media audience or electronic contacts in their outreach participation calculations. FSCM’s report of 436 outreach activity participants on MADtrac did not appear to take into account the 1,020 visits to its website mediation page. Similarly, CDSC held outreach events (education, conflict skills workshops) for 35 different groups, totaling 1,001 participants – more than triple the 315 outreach/education participants entered by CDSC into MADtrac. Similarly, MCC’s count of 930 participants in the center’s outreach/community education activities omitted the 8,426 individuals who received the center’s email newsletter, the 1,000 who received a hard copy of the newsletter, and the 9,862 likely readers of an article submitted to NAFCM. In all likelihood, the number of 21,097 outreach participants recorded on MADtrac undercounted the extent of public participation in centers’ outreach/education initiatives since some centers omitted their media and electronic audience from their outreach calculations. Indirect confirmation of the impact of center outreach was provided by the quantity of inquiries for information and referrals fielded by centers: 7,523 such inquiries were received in FY 2019.

In any event, at least 50,098 members of the public learned about ADR from the informational literature distributed by centers.²⁹ Specifically, FSCM disseminated brochures, copies of its sliding scale fees, and trinkets at fairs; Martha’s Vineyard mediators and board members distributed nearly 1,000 informational materials at several Vineyard sites on Conflict Resolution Day; MetroWest sent brochures

²⁹ Center accounts of disseminating outreach materials at various events contradicted the MADtrac data that no informational materials were produced during FY 2019 and to some degree corroborated the survey data of 50,098 recipients of outreach materials.

describing the usefulness of mediation for students to primary and secondary school administrators in the MetroWest region; and TMTC distributed flyers about its events along with other TMTC literature to more than 40 business organizations, including Chambers of Commerce.

b. Center trainings:

Centers' commitment to affordability extended to their training and other educational endeavors such as workshops and presentations, which were offered in pursuit of multiple goals: to raise public awareness about dispute resolution, strengthen social capacity for managing and preventing conflict, recruit volunteer mediators, and generate income. Assuring that these services were both reasonably and flexibly priced enabled centers to balance their interest in promoting social harmony with their potentially competing economic interest and consequently to pursue all four goals.

Centers optimized their mediator recruitment and retention efforts by linking discounted or waived training fees to volunteering. CDSC awarded five scholarships to reduce tuition for basic mediation training. At BCRHA, three basic mediation participants received a training stipend during FY 2019 in exchange for a one-year commitment to volunteer at the center. MSI offered free trainings to its mediators and fee rebates to basic mediation trainees who agreed to volunteer. Martha's Vineyard provided scholarships for its conflict coaching training to individuals based on factors that included volunteering at the center as well as membership in the Wampanoag tribe or in an under-represented ethnicity, youth (under 35 years of age), or facility in Portuguese.

Moreover, participation in centers' training and other educational efforts was promoted by the judicious use of fees. Thus, MSI's training fees were among the lowest charged by other community mediation centers and businesses for basic training. North Shore was able to provide free peer mediation training at three schools because of a foundation grant. Besides providing scholarships or "graduated payment plans" to eight basic mediation trainees, TMTC conducted three conflict resolution workshops and made three presentations on conflict resolution for free. In order to increase attendance, FSCM entertained the possibility of eliminating fees in the future for its financial literacy presentation. MetroWest lowered its rates for conflict resolution workshops for non-profits. CDSC also provided workshops to non-profits at lower rates than those for for-profit groups as a way to make its "services accessible to underserved populations and to addressing emerging community needs."

Based on data entered by centers into MADtrac, the 627 trainings that were conducted – 35 basic mediation trainings, 328 advanced mediation trainings, 219 specialized mediation trainings, and 45 peer mediation trainings – resulted in 4,574 people learning about conflict resolution strategies.³⁰ However, in response to a year-end survey, centers reported conducting 307 trainings (including conflict resolution training), involving 5,126 people when workshops were included. A reasonable conclusion might be that at least 300 trainings were conducted by centers for more than 4,500 participants during FY 2019.

c. Impact of outreach & education initiatives on centers:

³⁰ The total number of basic mediation training participants (253), advanced mediation training participants (328), specialized mediation training participants (3,711), and peer mediation training participants (282) reported by centers on MADtrac was 4,574.

Centers' outreach and community education initiatives paid off for the majority of centers on a number of measures. Encouraging utilization of centers' training and educational services redounded to centers' economic benefit. For instance, not only did participation in CDSC's conflict skills workshops – designed to improve participants' ability to handle conflict – increase, so did the revenue produced therefrom – increasing by 37% to \$50,682 from the \$37,085 earned the previous year. In general, trainings provided six centers with \$79,642 in income. In addition, ten centers found that their outreach increased public awareness. Mediation referrals to ten centers also increased. Outreach led to an upsurge in training participation and requests for mediation at nine centers and in volunteer mediators at eight centers. No negative impact from center outreach on the aforementioned measures or on other circumstances such as volunteer staffing, paid mediators and staff, community fundraising and in-kind donations was reported by centers.

6. Accommodating diversity needs:

The Twelve-Point Model directs community mediation centers to strengthen their ties to the communities in which they operate by mirroring the diversity of their community – with respect to such features as age, gender, income, race, ethnicity, work experience, etc. – through the make-up of their mediator pool and the population receiving services. Besides contributing to stronger community ties, diversification can advance such other goals as preventing unequal access to dispute resolution, expanding dispute resolution assistance to underserved or otherwise overlooked populations, and guarding against the erection of barriers between parties and mediators that can undermine mediation's effectiveness.

The diversification strategies pursued by centers and supported by the Grant Program grant awards proved successful for most. Increasing the variety of center's referral sources was a client diversification strategy that led to contacts with around 78-94 agencies, and produced 3,203 referrals from the courts and 698 referrals from non-court sources. To illustrate: the 35 different groups that took part in CDSC's outreach events involved the participation of 1,001 individuals from a variety of backgrounds, including “seniors in public housing, youth interested in law, young parents, graduate students, college campus leaders, new home owners, human services professionals, and HR professionals.”

a. Mediator diversity:

The goal of mediator diversity was tackled, in part, by drawing members of different population groups into center trainings. Accordingly, CDSC waived tuition for training and practicum for a bi-lingual Mandarin speaker and a young African-American male. As a result of MMS' outreach initiatives, participants in the center's basic mediation training included an African-American, three Hispanics, a Cape Verdean Creole speaker, and a French speaker. In the end, overall client or mediator diversity did not decline at any center. Nevertheless, the diversity exhibited across the entire group of parties and mediators at all centers was not equally applicable to every center in all respects.

The value placed on mediator diversity derives from the belief that “diversity will help participants feel connected to mediators”³¹ and “help participants perceive the process as more responsive to their needs

³¹ Charkoudian, L. & Wayne, E.K. (2010). Fairness, understanding, and satisfaction: Impact of mediator and participant race and gender on participants' perception of mediation. *Conflict Resolution Quarterly*, 28:1, 23-52, 23.

than the legal system, which does not consider personal characteristics.”³² During FY 2019, diversity among mediators also increased at nine centers. Greater specificity about mediator diversity for FY 2019 is limited. Mediators, or centers on behalf of their mediators, were not forthcoming with demographic information. Thus, despite the progress made by TMTC in collecting demographic information from new mediators during FY 2019, mediator reluctance to share personal information left the demographic profile of the center’s mediators incomplete.

Notwithstanding the scarce data, among the 57% of 433 mediators whose statistics were tracked on MADtrac, all racial/ethnic categories except American Indian/Alaskan Native were represented. This exception may not hold since, on the strength of information supplied by Martha’s Vineyard outside MADtrac, 18% of its mediators were American Indian. Furthermore, according to centers, there was a greater variety in the race or ethnicity of their mediators than was captured by MADtrac categories. Thus, MCC recruited 13 volunteer mediators in FY 2019, six of whom were bilingual, fluent in Spanish, Portuguese, Italian, Bengali, or a Nigerian dialect. CDSC’s mediators included three individuals with Middle Eastern backgrounds and one from Brazil. MetroWest gained two mediators who were fluent in Portuguese and one mediator who spoke Mandarin Chinese, which enabled the center to conduct mediations in those languages and expand the centers’ capacity to serve more groups in its community. To the extent that a center’s mediator pool was racially/ethnically diverse, centers gained the ability to optimize mediation’s effectiveness by setting up mediations where the race/ethnicity of the mediator(s) matched not just one, but all or none of the disputants and thereby avoided a negative impact on the lone unmatched disputant’s perceptions of control and of being heard without mediator judgment during mediation.³³

b. Gender representation in the mediator pool:

The gender of the mediator at the session may influence the parties’ view of their mediation experience. Research – conducted within the context of the traditional binary approach to gender – suggests that parties may perceive gender-based differences between male and female mediation practices that are not real.³⁴ Accordingly, process satisfaction and the perception of being heard without judgment by the mediator tended to be less prevalent among parties whose gender did not correspond with the gender of the mediator; and, in mediations where there was a gender match between the mediator and only a single party, the unmatched party was less likely to consider mediation communication effective.³⁵ Generally, gender disparity prevailed in centers’ mediator pools in FY 2019. Females were predominant among center mediators. Although approximate gender parity among mediators existed at three centers, female mediators outnumbered males at the nine remaining centers. Indeed, at six centers, the ratio of female to male mediators was at least two to one. All the same, each center’s mediator pool did contain both male and

³² Charkoudian & Wayne (2010), *ibid.* p. 24.

³³ Charkoudian & Wayne (2010), *ibid.*

³⁴ Charkoudian & Wayne (2010), *ibid.*

³⁵ Charkoudian & Wayne (2010), *ibid.*

female mediators, thus providing centers with the opportunity to consider, if desired and feasible, the mediator's gender when arranging mediation sessions.

c. Increasing cultural sensitivity:

Centers sought to accommodate the diversity of the population in their service area, not only through mediator diversity, but also by increasing the cultural sensitivity of center personnel. Thus, Cape Mediation celebrated the contributions of its volunteers by hosting presentations on “recognizing and overcoming unconscious bias” by mediators and on the experience of “mediating with rival factions with different cultural norms after the Rwandan genocide.” Finding that the large Hispanic/Latin community in Hampden County was underserved with respect to dispute resolution assistance, TMTC conducted a Spanish-Speaking Training Development Pilot in FY 2019, which, among other things, illuminated the challenge of navigating cultural differences. The center learned that the community's awareness of mediation was low and the prevailing interest in basic mediation training was outweighed by other pressing priorities – e.g. the hurricane in Puerto Rico. Moreover, tension between certain mediation protocols and cultural norms was exposed: among other differences, the community did “not tend to look to ‘outsiders’ for conflict resolution resources” and preferred “known/trusted interveners” to “professionals/neutrals,” among other differences. Based on its experience with this pilot, TMTC is considering the deployment of a training model that focuses on “co-learning ‘train the trainers’ opportunities in which diverse community members and community organization staff can learn how to bring mediation training back into their own communities and adapt it to local contexts and needs.”

7. Increasing access to mediation:

Centers endeavored to mitigate cost, geography, and time as obstacles to using mediation services.

a. Reducing the cost of ADR services:

Affordability was a key feature of the services offered by community mediation centers. The cost of litigation often puts judicial assistance with resolving disputes out of the reach of lower-income and middle-income parties.³⁶ In contrast, the availability of centers' dispute resolution services for free or for sliding scale fees provided parties from a broad income spectrum with access to assistance with dispute resolution during the 2019 fiscal year. As demonstrated by the responses of the 1,392 parties who furnished information about their annual income (18% of 7,831 surveyed parties), mediation services were provided to parties at income levels that ranged from \$0-9,999 to more than \$65,000 throughout the 2019 fiscal year (see Table 9).

Table 9. Number of parties' by annual income during FY 2019.

Annual income	\$0-9,999	\$10,000-19,999	\$20,000-29,999	\$30,000-39,999	\$40,000-49,999	\$50,000-59,999	\$60,000-64,999	\$65,000 or more
Number of parties	204	172	252	124	113	174	58	295

³⁶ “An estimated four-fifths of the individual legal needs of the poor, and a majority of the needs of middle-income Americans, remain unmet” (Rhode, D. L. (2009). Whatever happened to access to justice. *Loyola of Los Angeles Law Review*, 42, 869-911, 869. Retrieved March 3, 2016, from <http://digitalcommons.lmu.edu/llr/vol42/iss4/2>

Out of 3,730 closed cases, no fees were charged to parties in an overwhelming majority or 95% of cases (3,559); a small number of 4% of cases (154) involved sliding scale fees; and full fees were charged in a trivial 0.5% of cases (17). All centers implemented their commitment to providing affordable mediation services to members of the community by accepting referrals from the Trial Court, including those Departments like the District Court and the Juvenile Court which expressly prohibit charging parties for dispute resolution services.³⁷ The scope of free services was expanded further by several centers. Mediation services were provided without charge by MCC and Greater Brockton in all cases. MetroWest's mediation services were gratis for parties referred by the AGO, the Police Department, and other public agencies. CDSC waived mediation fees in three juvenile Harassment Prevention Order cases.

As for fee-based services – at most centers, sliding scale fees were usually reserved for non-court cases or cases referred by courts without ADR fee restrictions (e.g., the Probate & Family Court). MetroWest charged sliding scale fees for mediation services in family, divorce, post-divorce and neighborhood disputes according to parties' ability to pay. Martha's Vineyard's mediation services were offered to non-court community cases at sliding scale rates that were lower than the previous year. MMS piloted the imposition of fees in cases where costs would not impede access. The fee structure employed by MMS varied with the size of the claim and the types of parties (such as public entities or large businesses) and was applied to a single case in FY 2019-2020. Together, centers earned \$36,746 in mediation fees over the 2019 fiscal year.

b. Using convenient locations:

The centers used over 100 locations to hold mediations at least 3,000 times. These numbers attest to centers' attentiveness to party convenience when selecting mediation sites. Accordingly, mediations were conducted over the telephone 78 times. At Cape Mediation, mediation sessions could be conducted off court sites by appointment. Aside from court-referred cases which were mediated at court, MCC conducted mediations at the center's Lowell office, at the Middlesex Community College in Bedford, and in public places chosen by parties. Similarly, Martha's Vineyard held court-related mediation sessions at the county courthouse and non-court mediation sessions at the center office, law offices, and two town libraries. A senior center was also available for Martha's Vineyard mediations. North Shore mediated student disputes and juvenile cases at the parties' schools, housing cases at the YMCA and parties' homes, family cases at the center office, and court-referred cases at the respective courts.

Mediations were conducted at nearly equal numbers of court and non-court sites, namely, at 52 court and 55 non-court locations. Despite the availability of alternative mediation sites, court spaces were more heavily used for mediation. Although, Greater Brockton, for instance, routinely informed parties that off-site and after-hours mediation sessions were available, only 3% of mediations (four mediations) were held off-site and after-hours. Furthermore, Greater Brockton made no use of a Hull conference room due to the lack of demand for off-site services in that area. CDSC received no requests for mediations at (non-court) locales convenient to parties. By and large, court sites were used more than twice as often as other sites: out of the 3,219 times that sites were used for mediation sessions, courts were used 68% of the time

³⁷ See 2016-2018 list: <https://www.mass.gov/doc/trial-court-list-of-court-connected-approved-programs-for-alternative-dispute-resolution/download>

(or 2,250 times). A plurality of five centers attributed an increase in mediation sites to the Grant Program grant they were awarded. However, four centers discerned no change in the quantity of their mediation sites while three centers experienced a decrease (without explaining how receiving grant money was connected to fewer sites).

c. Scheduling sessions at convenient times:

Making time to mediate involved consulting party convenience together with mediator availability. For court-referred cases, which were the majority of referred cases, mediations were scheduled during court hours when parties and mediators were present. The school day was a consideration in arranging mediation sessions when parties had children. North Shore indicated that parties in family cases tended to choose daytime hours when their children were in school in order to avoid childcare issues. North Shore's mediation of disputes that involved students or school personnel could be held at school before the start of the school day – sometimes as early as 7:30 a.m. MCC tended to mediate student disputes during school time, with assignments provided to student disputants to make up for missed classes.

In addition, all centers provided services during regular business hours on week-days. At some centers, business hours began early, before 9 a.m. BCRHA made its services available from 8-5, and Cape Mediation was open for business from 8-4. Other centers had late office hours. FSCM services were available not only from 8 a.m. to 5 p.m. on Fridays, but also from 8 a.m. to 8 p.m. on Monday through Thursday. Mediation hours at North Shore were from 8 a.m. to 7 p.m. To further accommodate party needs, mediations could be scheduled outside regular hours by appointment, e.g., at BCRHA and MSI, or by request, e.g., at Cape Mediation and MetroWest.

Most centers found that party requests for mediation sessions to be conducted off-hours were relatively few. Out of 53 mediations held at the CDSC office, 32% were held in the evening, 42% in the morning and 26% in the afternoon. Over one-third or 35% of FSCM's divorce/family mediations were scheduled in the evening during the week. About 30% of MetroWest's mediations were held in the evening in response to parties' requests. Martha's Vineyard estimated that 10% of family mediations were conducted in the evening or on the week-end to accommodate parties' work schedule.

With respect to the quantity of hours available for scheduling mediation sessions, centers' survey responses revealed that Grant Program grant awards contributed to an increase in such hours at eight centers and maintained the status quo in available hours at two other centers. Another two centers connected the decrease in their scheduling hours to their Program grants.

8. Involving the community in center governance and development:

Centers' community ties were probably reinforced when community involvement in center operations was encouraged. Accordingly, centers created opportunities for contributions from the community in the form of money and labor, among other things. MSI, for instance, held a fundraising event to honor its retiring center director that involved a silent auction in which community businesses participated. CDSC, which sought to build community and encourage community engagement through its annual fundraiser, successfully reached out to potential sponsors and the community and exceeded its fundraising goal of \$46,000 by \$21,000. According to three centers, their public education and outreach

efforts led to increases in community fundraising even as outreach from the remaining centers either left their community fundraising unchanged (seven centers) or were inapplicable (two centers).

Often enough, centers drew their labor force, particularly their volunteers, from the surrounding community to fill both staff and mediator positions. Thus, members of the community volunteered at TMTC and contributed 257 actual hours, including case hours. At MMS, which had 29 volunteer mediators, two paid and two volunteer staff members, and 31 Board members, “100% of MMS staff, 90% of mediators and 100% of Board members live in communities served by MMS, and serve to identify and integrate community issues within [their] work.” Volunteer mediators from Chatham, Eastman, Harwich, Truro, and Provincetown were sent by Cape Mediation to Human Services Committee meetings in their respective towns to represent local voters.

9. Developing collaborative relationships to meet community needs:

Centers worked with other groups – organizations, agencies, associations, businesses, non-profits, etc. – to serve the community. Eleven centers, for instance, participated in the AGO’s consumer mediation program to mediate consumer and landlord-tenant disputes. The AGO’s award of \$413,000 to the participating centers led to approximately \$3,700,000 returned to consumers served by centers, which amounted to nearly a nine-fold return on the AGO’s investment. The chief interaction between centers and other groups, though, concerned referrals for centers’ dispute resolution services. Centers received referrals from 94 agencies. Courts, however, were centers’ major source of referrals. Out of 3,897 referred closed cases, the courts generated 82% or 3,201 referrals. All centers were approved to receive court referrals and provide ADR services in various Trial Court Departments, but TMTC was also able to provide mediation services to families referred by a Specialty Court – the Hampshire Probate Court Family Resolutions Specialty Court. As for non-court referrals, non-court sources accounted for the remaining 18% or 696 referred closed cases. The housing sector was a prime source of such non-court referrals. Thus, MetroWest conducted mediations of housing disputes referred by the MassHousing Tenant Assistance Program, and CDSC, operating in the realm of housing disputes in partnership with the Boston Mayor’s Office of Housing Stability, made mediation services available for eviction-related landlord-tenant disputes.

Centers not only received referrals, they made referrals, too. MCC had a practice of directing parties to other organizations for help in addressing non-ADR needs. Mediators from centers, such as TMTC, who provided mediation services for parenting issues under the auspices of the Parent Mediation Program, referred disputing parents to court service centers when relevant. And FSCM’s experience with creditor reluctance to use mediation led the center to refer callers with creditor issues to the AGO or the Local Consumer Protection Program.

Apart from serving the dispute resolution needs of individuals, centers served organizations, including agencies, associations, etc., by providing trainings, workshops, and otherwise sharing their expertise in handling dispute resolution matters. About 235 agencies were served by centers on approximately 811 occasions. Among other things, centers helped increase the conflict resolution skills of organizations’ staff through trainings and workshops. BCRHA conducted a mini-training regarding benefits of mediation with a significant focus on active listening for staff at the Building Bridges-Pittsfield Working Cities Initiative, an organization dealing with issues related to poverty, serving marginalized populations, and furthering “grassroots engagement.” North Shore reported that a university athletic director turned to the center for assistance in dealing with team dynamics out of concern about the culture

of disrespect for “community infractions of the athletic code” from the school’s teams and coaches. After meeting with individual team members, North Shore conducted skills/awareness trainings with the different teams and provided conflict coaching to one coach. In another matter, North Shore shared its expertise in ADR program development by helping with the implementation of an on-site mediation program pilot at the Salem Probate and Family Court, which involved participating in program development meetings, strengthening relationships with court personnel, acting as a resource for information about policies and procedures, and devising data collection methods for program evaluation.

Centers, in turn, were served by other organizations. As the latter made their premises available for center use, centers were increasingly able to consult party preferences about where to mediate. Thus, alternatives to the mediation sites at courts and centers offices were provided by libraries to Martha’s Vineyard, Cape Mediation, and MCC. Organizations also supported centers’ outreach efforts. For example, CDSC disseminated information about its work at resource booths at three fairs – the Suffolk Law School Pro Bono Fair in October 2018, the Boston Bar Association Board Fair in April 2019, and the Somerville Cambridge Annual Elder Fair – and at a Young Parent Summit Event run by Brigham & Women’s Hospital and STEPS for Young (Teen) Parents.

Some of the relationships between centers and other organizations involved reciprocity. MSI collaborated with the Winchendon Housing Authority, offering workshops and outreach events at the residential facilities and free mediation services for tenants, while the housing authority provided sites for outreach activities and mediation sessions. Greater Brockton was offered the use of a conference room for mediation sessions by the Abington Police Department even as the center dealt with a Police Department referral.

Finally, centers cooperated with one another on various matters. BCRHA joined TMTC to offer a program in an agricultural workshop at an organic farming conference and co-facilitate a workshop on “high-conflict mediation dynamics.” BCRHA also contributed ideas and shared experiences at TMTC’s event about restorative practices. CDSC collaborated with MetroWest on handling harassment prevention cases. Greater Brockton provided MADtrac training to a Martha’s Vineyard staff person. MCC, MetroWest, MSI, North Shore and FSCM cooperated on such matters as trainings in basic mediation and juvenile court procedures, tracking volunteer hours, and involvement with the Local Consumer Program and with the Trial Court ADR project. Greater Brockton and North Shore’s assistance with Martha’s Vineyard’s application to the AGO Face-to-Face Program led to an award of \$15,000 from the AGO to Martha’s Vineyard for FY 2020.

As a result of their connections with other groups, a majority of eight centers (66%) reported that their community partnerships were instrumental in increasing demand for center services as measured by the quantity of intakes and mediations performed. The remaining four centers experienced no change in intakes and mediations attributable to their community partnerships.

10. Maintaining high quality mediation services:

Center commitment to high quality mediation services was demonstrated by their individual efforts to assure excellence together with their joint effort to acquire and share their expertise in effective mediation practices and in mediator recruitment and retention. MOPC supported centers’ commitment by furnishing opportunities for mediator learning and peer support.

In accordance with Rules 8 and 9 of Supreme Judicial Court Rule 1.18: Uniform Rules on Dispute Resolution, centers ensured that their mediators met the requirements for training, mentoring, and continuing education; complied with evaluation; and conformed to standards of professional ethics. Procedures for documenting compliance with court and center requirements were adjusted by five centers. Centers provided administrative support for mediators' achievement of excellence.

Centers' mediator requirements often exceeded those authorized by the court. At several centers, mediation training was longer than the 30-hour minimum mandated in Rule 8. Cape Mediation's basic mediation training, for example, took 32 hours; at MetroWest, training was 35 hours long. At half or more of the centers, the mentoring component of training applicable to trainees interested in becoming mediators entailed the completion of a practicum or apprenticeship that included observing mediations and co-mediating with a more experienced mediator. In some of the practicums, observation and co-mediation were supplemented by additional prerequisites: BCRHA's apprenticeship involved the completion of a subject matter curriculum, and Cape Mediation's Advanced Court Practicum included participation in debriefing, mentoring, and coaching sessions. Conditions for entry into their practicum or apprenticeship were imposed by some centers. Mediator candidates at MCC had to first be interviewed and have their references checked before proceeding to the next phase of mediator training. Prospective mediators were required by FSCM to complete an application, submit three references, and undergo a CORI investigation prior to their entry into the practicum stage of mediator training. Trainees who had completed mediator training were not allowed to join MetroWest's mediator roster without a training staff recommendation based upon the trainees' skills.

Centers provided mediators with professional development opportunities. Continuing education was offered by all centers. And so, BCRHA and TMTC joined forces to develop on-line training for their mediators and produced a 2.5 hour workshop on high-level conflict mediation that attracted 22 mediators – 15 in-person attendees, five participants in real-time video conferencing, and two viewers of the on-line recording of the training. The training received favorable reviews from the 13 surveyed participants, 12 of whom reported a positive impact on their involvement with mediating intense conflicts while four appreciated getting an on-line training option. Mediators at MetroWest learned about non-violent communication and strategies for “getting to yes.” CDSC seminars in non-violent communication and on including children in divorce mediation were attended by mediators from CDSC and other centers. In their push to branch out into family and juvenile disputes, North Shore mediators expanded their skills through continuing education courses in family mediation that focused on Child Support Guidelines and Alimony Tax Deduction and in juvenile court processes, the juvenile case mediation process, and adolescent capacity to participate in mediation.

Advanced training opportunities were also provided by 11 centers. BCRHA's offerings covered auto repair and housing law, which its mediators had identified as important to their small claims practice. Transformative mediation and mental health issues concerning ADA compliance and accommodations were advanced training topics at MSI. And family and divorce mediation was one subject of TMTC's advanced trainings. MCC peer mediators enhanced their skills by interacting with mediators from other mediation programs across the state. Mediators' educational opportunities were further expanded by MOPC-sponsored trainings in re-entry mediation, conflict coaching, restorative justice programming, and the use of social media and technology.

Grant Program grants helped to underwrite centers' initiatives to strengthen mediators' subject-matter and process expertise. Due, in part, to these grants, mediator' professional development increased at a large majority of eight centers and remained constant (unchanged) at three other centers. Despite the financial support from the Grant Program grant, professional development for mediators declined at one center.

Every center evaluated its mediators. Eight centers worked on mediator supervision and seven centers made changes to their evaluation process. BCRHA was one of two centers to institute a performance-based assessment of its mediators in FY 2019. The center developed a checklist of skills in managing process, party interactions, and information exchange, etc. by which to measure mediator performance. The resulting assessment would then be reviewed by BCRHA together with the mediator. North Shore promoted mediator self-assessment through a survey that asked mediators about their skills and the areas in which they would welcome help. Martha's Vineyard replaced its evaluative observation cycle with an annual Individual Professional Development Plan process that documented the results of a meeting between mediator (or apprentice mediator) and the lead mediator in which recent observations by the lead mediator, self-reflection by the mediator, and the mediator's professional goals and development plans would be discussed. TMTC created a new position – that of Mediation Mentor – to join its Court Mediation Coordination Specialist in conducting post-session debriefings with mediators.

Each center also monitored mediator quality by regularly seeking out parties' reactions to their mediation experience through voluntary post-mediation surveys. The process satisfaction questions that centers had incorporated into their own surveys were joined by questions about mediation's impact on parties. Feedback from parties indicated that large majorities (75% or more) approved of their mediation experience, and substantial minorities (40% or more) experienced a positive impact from mediation on the conflict, communication, and relations between the parties.

V. ECONOMIC IMPACT OF STATE OPERATIONAL FUNDING

ECONOMIC IMPACT OF STATE OPERATIONAL FUNDING

MOPC, as part of its program evaluation of the CMC Grant Program, collects and analyzes data to establish the impact of community mediation in courts, schools and neighborhoods. Data gathering is conducted quarterly through the submission of data reports generated through a case management database system (MADtrac), through a comprehensive annual performance-based grant application process where centers detail center activities and through an annual survey to the centers that captures full-year data after the conclusion of the grant-year. The case management database records all center activities, including how many persons were served, how many volunteer hours were contributed, the number of disputes resolved, moneys saved to parties and other mediation outcomes, and even demographic information. A second software program (STATtrac) is used to aggregate the data from all centers. MOPC has reviewed the

reliability of this data through the definition of various data points, continuous training of center staff and triangulation with data from the survey and grant applications. MOPC expects that these cost and outcome measurements will lead to even more robust economic evaluations of the CMC Grant Program in the future.

In the interim, MOPC developed the following economic analysis indicating what the costs and benefits from the CMC Grant Program would look like based on empirical as well as assumed estimates³⁸ (some estimates are derived from other states' empirical estimates)³⁹.

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)⁴⁰. 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.”⁴¹

³⁸ 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/>

³⁹ 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.³⁹ 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.³⁹ In most cases, finding a correlation between an alternative and a measure of effectiveness will be possible.³⁹ It is hoped that the following preliminary economic analysis will provide some direction and guidance for a more robust economic analysis to follow.

⁴⁰ 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).

⁴¹ 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

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

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

This economic analysis of MA community mediation is divided into three distinct analyses: 1) cost of intervention analyses, which simply show what it costs to run an intervention; 2) cost-effectiveness analyses, which show what it costs to achieve a certain effect⁴²; and 3) cost-benefit analyses, which show the overall costs and benefits of an intervention.⁴³

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.⁴⁴

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

⁴² 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).

⁴³ 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).

⁴⁴ 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.

community mediation centers through a structured grant process by the Commonwealth of Massachusetts and the State of Maryland.

i. Cost of setting up existing dispute resolution infrastructure

Effect-size estimation:

- Before FY 2013 funding, centers without any state funding through the trial court since FY 2009 were facing dire financial issues. There was a possibility that most/some centers would go out of business.
- A survey administered in the 1990's of court-connected ADR programs shows the average annual administrative cost (at the time) per each program/center was \$34,500.⁴⁵
- In FY 2019, the total cost of operating the twelve community mediation centers was \$2,426,000, which is an average of \$202,166 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 2019 closed without state operational funding, using the administrative costs of programs from the 1990's as a baseline start-up cost, \$586,000 would have to have been appropriated by the Commonwealth of Massachusetts just to restart 12 community mediation centers in FY 2019. Any return on investment that appears in this report would not have accrued in FY 2019 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 \$2,426,000, which is an average of \$202,166 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 \$785,600 in grants to 12 community mediation centers. In the same year, 12 Massachusetts community mediation centers conducted 3,334 mediations. Using the state grant program investment as the cost, the estimated intervention cost of the grant program is \$236 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

⁴⁵ 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.

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 187% less than the cost of intervention of Maryland. Comparatively, Massachusetts community mediation centers conduct .19 times more mediations for the number of public funds invested through the Community Mediation Center Grant Program than Maryland community mediation centers.

iii. Cost per person served based on state operational investment

Effect-size estimation:

- The Massachusetts Legislature invested \$785,600 in grants to 12 community mediation centers FY 2019.
- 12 grantee Massachusetts community mediation centers served a total of 7839 clients in FY 2019 (including case intakes and mediations), and provided a total of 9257 mediation hours by volunteer mediators, staff and board members.
- The average cost of intervention of the Massachusetts CMC Grant Program is \$100 per client and \$85 per mediation hour.⁴⁶
- The hourly rate for a private mediation practitioner is around \$225-288 an hour.⁴⁷ Additionally, lawyers charge \$388-\$595 an hour (Associate vs. Partner) in legal fees.⁴⁸ In some cases, this figure may be as high as \$1,500 per hour.⁴⁹

Cost of intervention:

⁴⁶ 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.

⁴⁷ Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

⁴⁸ Massachusetts Lawyer's weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

⁴⁹ 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>

Based on the state grant program investment in MA community mediation, MA community mediation centers cost 225%-288% less per hour than hiring a private mediator and between 456%- 700% less per hour than hiring a lawyer to resolve your dispute.

B. Cost-effectiveness analysis of MA Community Mediation.

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

Methodology:

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

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

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

i. Cost-effective grant program administration

- In FY 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 received 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 2019, the Massachusetts Office of Public Collaboration (MOPC) spent \$190,000 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 2019, MOPC received \$170,223 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 \$360,223.

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 **153% 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 1:1.5.

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:

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

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.⁵⁰ Administrative data from the Berkshire County Regional Housing Authority Mediation Program indicates that mediating landlord-tenant cases resulted in 96.3% of the tenants preserving their tenancy in FY 2019.^{51, 52}

⁵⁰ 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), p. 99.

⁵¹ From July 1, 2018 through June 30, 2019 the Berkshire County Regional Housing Authority's Mediation Center has mediated 243 Summary Process Eviction cases, with a result of 234 Mediated Agreements or 96.3% success rate. Out of the 234 Mediated Agreements, 167 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, 69% resulted in a tenancy being preserved.

⁵² 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 FY 2019 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

- Of the 12 community mediation centers, Berkshire County Regional Housing Authority Mediation Program alone conducted 243 Summary Process Eviction cases, with a result of 234 Mediated Agreements or 96.3% success rate. Out of the 234 Mediated Agreements, 167 resulted in the preservation of the tenants' tenancy or out of all cases mediated, 69% resulted in a tenancy being preserved.
- 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).⁵³ The cost of mediation would be free or almost negligible.
- The average length of a homeless shelter stay across the state is 267 days.⁵⁴ 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 all 167 cases avoiding eviction and potentially avoiding the use of homeless shelters, the cost saving would amount to \$4,458,900.⁵⁵

Cost-benefit:

At a conservative saving of \$4,000 per case, Massachusetts community mediation centers saved landlords/tenants \$468,000 in 167 avoided eviction case expenses and \$4,458,900 saved from parties possibly avoiding homelessness in FY 2019. The latter is if the 167 housing/landlord-tenant mediations helped prevent families from using homeless shelters, the community mediation centers saved \$26,700 per family or saved \$4,458,900 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

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.

⁵³ Mass Landlords.Net figures, retrieved November 29, 2017 <https://masslandlords.net/laws/eviction-process-in-massachusetts/>

⁵⁴ The Growing Challenge of Family Homelessness Homeless Assistance for Families in Massachusetts: Trends in Use FY2008-FY2016. (2017, February). Retrieved November 30, 2017, from https://www.tbf.org/~media/TBFOrg/Files/Reports/Homlessness%20Report_Feb2017R.pdf

⁵⁵ 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*).

number of cases in court was estimated to be \$5,691,995, which is a cost saving of \$3,227,798 for a year.⁵⁶ 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 85 juvenile cases in FY 2019 (61 full agreements, two partial agreement and two reconciliations).

Cost-benefit:

At an average saving of \$882 per case to the District Court, Massachusetts community mediation centers mediated 85 juvenile cases referred by juvenile court resulting in full agreement⁵⁷ with an estimated cost saving of \$74,970 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 2584 mediations in the District, BMC, Probate & Family, Juvenile, Housing and Land Courts in Fiscal Year 2019. The resolution rate of community mediation centers in FY 2019 is 72%, or 1860 cases.
- 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.”⁵⁸
- Assuming a conservative cost-saving to the court of \$500 per case, and that all 1860 cases avoided trial, Massachusetts community mediation centers have saved an estimated \$930,240 to the court system from avoided trials in Fiscal Year 2019.

Cost-benefit:

Massachusetts community mediation centers have saved an estimated \$930,240 to the court system from 1860 successful mediations in the District, BMC, Probate & Family, Juvenile, Housing and Land Courts in Fiscal Year 2019.

iv. Cost-savings in legal fees for disputing parties

⁵⁶ From a report titled *Expanding juvenile mediation in Massachusetts* from the Crime and Justice Foundation cited by Cratsley, *op. cit.*

⁵⁷ 267 cases reached full agreement, 133 telephone settlement and 1 reconciliation.

⁵⁸ Oregon Department of Justice figures, retrieved December 17, 2012 from www.doj.state.or.us/adr/pdf/gen74031.pdf

- On average, parties can save between 40-78 hours in attorney time through mediation.⁵⁹ Massachusetts community mediation centers mediated 3334 cases in FY 2019. If each mediates case in Massachusetts reduced attorney time by 4 hours, mediating parties saved around 13,336 hours of attorney time thanks to mediation.
- Lawyers can charge \$388-\$595 an hour⁶⁰ (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 \$2,667,200 in legal fees alone.
- Costs to parties would include filing fees that are between \$40 and \$150 per party in Massachusetts.⁶¹ For small claims disputes concerning amounts less than \$7,000, private mediation practitioners can charge \$185 an hour.⁶² 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 \$133,360 in avoided filing fees.

Cost-benefit:

Massachusetts disputing parties saved a minimum of \$2,667,200 in legal fees from 13,336 hours of attorney time and \$133,360 in avoided filing fees from 3334 cases mediated in FY 2019 for a total cost-benefit of \$2,800,560.

v. Cost-benefit of leveraged pro bono mediation services

Effect-size estimation:

- Twelve Massachusetts community mediation centers maintained a roster of 412 volunteer community mediators (377 active mediators) who contributed 9257 hours of pro bono mediation services in FY 2019.
- At private market rates, the value of this pro bono work is estimated at \$1,712,545 at a \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate).⁶³

⁵⁹ 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/emppt.pdf>

⁶⁰ Massachusetts Lawyer's weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

⁶¹ Massachusetts Court System <http://www.mass.gov/courts/court-info/filing-fees/dc-fees-gen.html>

⁶² Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

⁶³ 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>

- If employed as an hourly wage earner, with the mean hourly wage for a mediator in the nation is \$34⁶⁴ the total value of these pro-bono mediation hours would amount to \$314,738.

Cost-benefit:

412 volunteer mediators (377 active) at twelve Massachusetts community mediation centers (includes volunteer mediators, volunteer staff and volunteer board mediators) 9257 hours of pro bono mediation services in FY 2019, the value of which is estimated at \$1,712,545 at \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate)⁶⁵ or \$314,738 at an hourly wage of \$34 for a permanently employee (hourly wage for mediator – national average).⁶⁶

The benefit-cost ratio of leveraged pro bono mediation services is 1:1.7, or for every dollar invested by the Legislature in FY 2019, centers generated a benefit worth one dollar and 72 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 17556 hours of pro bono administrative services from staff/volunteers/board members and interns in FY 2019.
- At an estimated cost of \$19.20 an hour (mean hourly wage for administrative services in Massachusetts),⁶⁷ the pro bono administrative services leveraged by the twelve centers are worth \$337,075.

Cost-benefit:

Community mediation centers leveraged 17556 hours of pro bono administrative services from board members, staff and volunteers in FY 2019 worth \$337,075.

vii. Cost-benefit from funds leveraged by community mediation

- The Massachusetts Legislature invested \$990,000 in the Community Mediation Center Grant Program in FY 2019. The Community Mediation Center Grant Program awarded \$785,600 in operational funds to 12 community mediation centers.

⁶⁴ United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

⁶⁵ Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

⁶⁶ United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

⁶⁷ 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

- The 12 MA community mediation centers used the state operational investment to leverage an additional \$1,640,400 from other private, 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 sixty-five cents (\$1.65) for every dollar invested by the Commonwealth of MA, or a benefit-to-cost ratio of 1:1.6 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 253 community members as mediators in FY 2019. Each 40-hour mediation course has a market value of \$925 per trainee.⁶⁸ The total value of these basic mediation trainings amounts to \$234,025.
- Based on survey responses, twelve centers also trained 307 persons in conflict resolution. The net cost of a conflict resolution training is \$250 at a private mediation training institution.⁶⁹⁷⁰ The total value of these conflict resolution trainings amounts to \$76,750.
- Based on survey responses, nine centers provided advanced mediation training (divorce, eviction etc.) to 335 persons. The net cost of an advanced mediation training at a private mediation training institute is estimated at \$825.^{71, 72} The total value of these advanced mediation trainings amounts to \$276,375.

⁶⁸ 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>

⁶⁹ Center for Conflict Resolution Training. Retrieved November 21, 2016, from <http://www.ccrchicago.org/training-programs.html>

⁷⁰ 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/>

⁷¹ Mediation Works Inc. Retrieved November 21, 2016, from <http://www.mwi.org/mediation-training-careers-in-meditation-advanced-mediation-training/divorce-mediation-training.html>

⁷² 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>

- Centers also trained 4231 others. At a very conservative cost estimate of \$50 per person, these trainings could cost an estimated \$211,550 in other venues.
- The total value of these training services to the communities is worth an estimated at \$798,700.

Cost-benefit:

Twelve Massachusetts community mediation centers trained 5126 community members (253 in basic mediation, 335 in advanced mediation, 307 in conflict resolution trainings and 4231 in other trainings) in FY 2019, the total benefit of which is worth an estimated \$798,700.

Based on the FY 2019 state investment in community mediation, the benefit-cost ratio of leveraged mediation trainings to communities is 1:.8 – or for every dollar invested by the state Legislature in FY 2019, centers leveraged an extra eighty cents worth of mediation training to community members.

ix. Cost-benefits to Massachusetts consumers

- The Massachusetts Attorney General's Office provided \$413,000 to eleven Massachusetts community mediation centers funded by the CMC Grant Program in FY 2019 for conducting face-to-face consumer mediations.
- Using the AGO numbers, twelve Massachusetts community mediation centers helped parties recover \$3,722,313 in FY 2019.

Cost-benefit:

The Massachusetts Attorney General's Office provided approximately \$413,000 to twelve Massachusetts community mediation centers in FY 2019 for conducting face-to-face consumer mediations. The twelve centers helped parties recover \$3,722,313 in FY 2019.

The benefit-cost ratio of the consumer mediation funds provided by the Massachusetts Attorney General's Office is 1:9 – or for every dollar invested by the AGO in Massachusetts community mediation, consumers are recovering nine dollars 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.⁷³

⁷³ 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>.

- Massachusetts community mediation centers conducted 261 peer mediations that is assumed to have resulted in avoided student suspensions or expulsions in FY 2019.⁷⁴

Cost-effectiveness:

Schools saved an estimated \$86,391 from avoided student suspensions or expulsions as a result of 261 successful peer mediations conducted by four Massachusetts community mediation centers. The true benefit-cost ratio cannot be determined since funding for the Student Conflict Resolution Experts (SCORE) Program of the Attorney General's Office in collaboration with community mediation centers and school communities was defunded in 2009.

xi. Cost-benefit to divorcing couples

Effect-size estimation:

- The average cost of private divorce mediation is estimated at \$5,000 per case.⁷⁵
- Eight Massachusetts community mediation centers conducted 116 divorce mediations in FY 2019.

Cost-effectiveness:

The average cost of private divorce mediation is estimated at \$5,000 per case. Seven Massachusetts community mediation centers conducted 116 successful divorce mediations in FY 2019. Assuming the mediations were conducted free, parties to the 116 successful divorce mediations saved an estimated \$290,000 at a conservative estimate of \$2,500 per case.

xii. Cost-benefit from complex multi-party mediations

Effect-size estimation:

- Massachusetts community mediation centers conducted 20 complex multi-party mediations in FY 2019.
- 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 \$6200.⁷⁶

⁷⁴ 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).

⁷⁵ 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.

⁷⁶ Full-day mediation session Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 16, 2017, from <http://www.mdrs.com/fees>

- Assuming an average cost benefit of \$6,000 per case, these centers have saved a total of \$120,000 to the disputing parties.

Cost-effectiveness:

Massachusetts community mediation centers saved \$120,000 to disputing parties in 20 complex multi-party mediations in FY 2019 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 196 successful family mediations in FY 2019. Research indicates that family mediation can reduce legal fees by between \$270-\$730.⁷⁷
- Assuming an average cost of benefit of reduced legal fees of only \$270, Massachusetts community mediation centers have saved \$52,920 in legal fees to parties from 196 family mediations.

Cost-effectiveness:

At an average saving of \$270 in legal fees per case, Massachusetts community mediation centers have saved \$52,920 in legal fees to parties from 196 family mediations.

xiv. Cost-benefit to local businesses/organizations

Effect-size estimation:

- Five Massachusetts community mediation centers conducted 15 successful workplace mediations in FY 2019.
- The Mediation Training Institute International (MTI) found that a conflict cost a New England organization \$60,916.⁷⁸
- 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:

⁷⁷ 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>

⁷⁸ Mediation Training Institute International. Retrieved December 20, 2012 from <http://www.mediationworks.com/mti/costs1.htm>

Assuming a resolved workplace conflict saved a conservative average sum of \$10,000 for a local organization, a total of \$150,000 was saved for local businesses/organizations from 15 workplace mediations by Massachusetts community mediation centers in FY 2019.

D. Summary of Economic Analyses.

Cost-savings from MA Community Mediation in FY 2019: \$8,620,424

1. \$3,722,313 recovered by consumers from consumer mediations.
2. \$2,667,200 saved from 13,336 hours of avoided attorney time and \$133,360 of avoided filing fees from 3334 cases.
3. \$930,240 to the court system/state from 1860 successful mediations avoiding trial in the District, BMC, Probate & Family, Juvenile, Housing and Land Courts in Fiscal Year 2019.
4. \$468,000 saved to landlords/tenants in 167 avoided eviction cases, plus savings from avoided homelessness.
5. \$290,000 saved to parties from not using private mediators in 116 divorce mediations.
6. \$120,000 saved to parties from 20 complex multi-party disputes.
7. \$150,000 saved to local businesses/organizations from 15 workplace mediations.
8. \$86,391 saved to schools from avoided suspensions/expulsions in 261 mediations.
9. \$52,920 saved to parties from avoided legal fees in 195 family mediations.

Resources Leveraged by MA Community Mediation in FY 2019: \$4,902,720

1. \$1,712,545 leveraged by 460 volunteer mediators at 12 community mediation centers.
2. \$798,700 worth of mediation trainings including workshops for 5126 community members.
3. \$414,000 from re-investing in existing centers with established networks of volunteers, referral sources and programmatic funders.
4. \$1,640,400 in additional state, federal and/or private foundation funds raised by centers from \$785,000 in state operating grants.
5. \$337,075 from 17556 hours of pro bono administrative services from volunteer administrators, board members and interns.

The total return on the state's FY 2019 investment of \$990,000 in the Grant Program was **\$13,523,144**.

VI. CONCLUSION

In Fiscal Year 2019, the Community Mediation Center Grant Program continued to make progress in carrying out its mission to increase public access to community mediation in Massachusetts. Operational funds of \$785,600 (out of an appropriation of \$990,000) were distributed to 12 community mediation centers by the Grant Program administrator, MOPC. Apart from delays in the launch of the new youth project grants, the grant-making process proceeded smoothly and to the satisfaction of most applicants. To ensure the future availability of community mediation services and the continued existence of community mediation centers and the Grant Program, MOPC and centers jointly engaged in budget advocacy, program development, and strategic plan activities throughout the year. Centers were able to continue to operate as alternate dispute resolution (ADR) providers due to Grant Program grants, which comprised 32% of collective center income. Operational benefits to center sustainability, to centers' work structure, and to the

breadth of centers' service to the community were attributed by most centers to Grant Program funding. Nevertheless, staffing and mediator issues were among the top three concerns of most centers.

Centers, with substantial support from MOPC among others, did their part to advance public access to community mediation throughout Massachusetts. The impact of center services on the population served resulted from activities that were in accord with the standards presented in the Twelve-Point Model of Community Mediation, such as assuring quality services, more fully addressing the conflict resolution needs of the community, accommodating diversity needs, increasing public awareness of center services, mitigating obstacles to services, and strengthening community ties. The economic impact of operational funding provided through the Grant Program on Massachusetts communities as a whole was estimated to amount to a \$13,523,144 return on the state's FY 2019 investment of \$990,000 in the Grant Program. Notwithstanding a small decline of 1.6% in demand for services, in FY 2019, centers handled over 4,000 cases – 82% of which were court-referred and 18% were non-court-referred – that involved an estimated 8,000 parties, who hailed from cities and towns throughout the commonwealth and were racially/ethnically and financially diverse. The cases that were mediated resulted in a 72.7% agreement rate that was in line with typical agreement rates generated by other mediation programs. Satisfaction with the mediation process was expressed by a majority of surveyed parties, and sizable minorities indicated that mediation had a positive impact on conflict, conflict management, and on party relations and communication.

VII. RECOMMENDATIONS

The Grant Program and funded centers have benefited Massachusetts communities during FY 2019. To ensure the continued availability of these benefits:

(A) The Grant Program should continue to receive state support.

The Commonwealth should continue to fund community mediation centers through the Grant Program under MOPC's administration. Data about the activities undertaken under Grant Program auspices and their impact should continue to be diligently and carefully collected and used as the basis for an assessment of the value added by the Grant Program to Massachusetts, and to its citizens and institutions. By means of this data-based assessment, legislators and other state officials should be regularly informed about the consequences of the state's investment in the Grant Program, including the benefits conferred by the program on their constituents and on Massachusetts communities and institutions.

(B) Funded centers and MOPC should endeavor to increase the use of centers' ADR services.

Out of concern over a three-year trajectory of diminishing court case filings and a waning demand for center services, centers, with MOPC assistance, are advised both to continue their current endeavors to motivate utilization of their services as well as to continue to create and explore ways to increase referrals, particularly non-court referrals, to the ultimate benefit of Massachusetts and its citizens.

(1) To increase court referrals:

Centers and MOPC have made laudable attempts to circumnavigate the decline in court referrals that was probably connected to the reduction in case filings and to preserve their role as ADR providers for the courts.

- a. **Centers should continue to diversify the courts in which they operate. Additional relevant MOPC-sponsored trainings might be useful for centers' efforts.**

Noteworthy center actions in this regard include obtaining Department approval as an ADR provider and gaining expertise in relevant matters (such as juvenile issues and juvenile court procedures). Although obtaining Department approval as an ADR provider and acquiring expertise in court-related subject matter do not ensure court referrals, without such approval or expertise, referrals would be highly unlikely.

- b. **MOPC and centers should continue to participate in the Trial Court's ADR initiatives.**

MOPC and centers should continue to play an active role in promoting court-connected ADR in partnership with Trial Court Departments to increase ADR access and utilization. By participating in the Trial Court's ADR education initiative and in the Probate and Family Court's on-site mediation pilot, centers and MOPC furnished additional evidence of the quality and value of their work, which may encourage greater court use of MOPC and center services and more case referrals. If other court ADR ventures materialize, centers and MOPC should consider participating and thereby burnishing their value for the court.

(2) To increase non-court referrals:

Given the current court situation, centers would also do well to persist in their endeavors to respond to community needs outside the court context while exploring the potential for more effectively tapping into the non-court market for their services.

- a. **Programs that respond to community needs under Grant Program auspices should continue to be developed, maintained, and expanded by MOPC and centers and receive state support.**

By serving the dual purpose of leveraging funding and producing social impact, program development under Grant Program auspices also provides for growth in the demand for center services from non-court sources. Thus, through the youth program, juveniles, including students, gained access to centers' ADR and training services; and the reentry mediation program provided correctional facilities with additional resources to support re-entry by offering mediation to pre-release prisoners.

- b. **Efforts to raise public awareness of community mediation, state funded centers, the Grant Program, and MOPC, should continue to be reinforced through professional assistance with public relations and marketing, including utilization of social media.**

ADR advocates have lamented the low levels of public awareness of ADR for more than 20 years.⁷⁹ Acquiring professional assistance with branding, motto design, and website development to raise the profile of center services and the Grant Program is a valuable move that will probably fortify centers' and MOPC's outreach to the community. It might be useful to also build upon the MOPC-sponsored training in the use of social media and technology along with the deliberations of the mediator workgroup to inform discussions about expanding outreach by way of social media.

- c. **Centers might consider investigating how to simplify access to their services by**
 - i. **finding out why people who know about ADR services fail to use them, and then**
 - ii. **exploring ways to make their services easier to use.**

Heightened public recognition might not be enough to get members of the public to actually use center services. It would be useful to understand why people don't act on their awareness of mediation or other ADR strategies when faced with conflict and to then take steps to eliminate – or at least mitigate – the difficulties that depress ADR utilization.

⁷⁹ McGillis, D. (July 1997). *Community mediation programs: Developments and challenges*. National Institute of Justice: US Department of Justice

APPENDIX: YOUTH PROGRAM REPORT

The Youth Program is administered by MOPC in partnership with qualified Community Mediation Centers (centers) from regions across the state. The program goal is to reduce youth violence through a positive youth development approach that cultivates youth as assets who contribute to their families, neighborhoods and communities. Funding for the program is appropriated annually through the state budget.

The projects funded through the Youth Program seek to improve school climate, community health, community safety, and family and community engagement by leveraging the experience and expertise of the centers in multiple domains like schools, neighborhoods and courts, and by systematically gathering evidence of program implementation and impact through evaluation, with investments from community partners, sponsors and funders to ensure sustainable youth programming throughout Massachusetts.

Fiscal Year 2019 was the first official year of the statewide Youth Program. The following principles, categories and criteria were developed by MOPC and the centers to formally establish the program and offer guidance for the types of projects to be funded in future years.

YOUTH PROGRAM BACKGROUND

In FY 2014, MOPC began awarding community project grants for youth-related conflict resolution initiatives of community mediation centers in partnership with local schools and community-based organizations. These projects served as pilots for a comprehensive study on youth conflict resolution, violence prevention and restorative justice to serve as an evidence base for statewide programming, along the lines of the SCORE Program (Student Conflict Resolution Experts), formerly administered by the Attorney General's Office with community mediation centers in 24 schools across the state. Through these pilot grant awards, MOPC funded a number of projects that combined peer mediation and restorative practices for dispute resolution and creative problem-solving among middle and high school-aged students and their teachers. This combined peer mediation and restorative practices model is a unique approach that harnesses the merits of mediation and restorative practices with the goal of building community in schools through existing peer mediation infrastructure. MOPC and the funded centers have been developing an evaluation system to measure the impact of this combined approach using indicators of Social Emotional Learning (SEL), the Safe and Supportive Schools Framework and other youth programming and conflict resolution standards. With an increase community mediation state funding for FY 2019, MOPC was able to launch this statewide youth program under an evidence-based framework to sponsor and scale up these types of youth initiatives aimed at empowering youth as agents of conflict transformation in their communities.

YOUTH PROGRAM PRINCIPLES

The Youth Program Youth Program designs and invests in youth projects and initiatives that encompass the following principles:

1. Provide direct services to youth with some adult involvement and planning.
2. Define youth as assets and build upon the skills, strengths, and positive characteristics of young people.
3. Provide opportunities for youth to build a sense of competency, usefulness, belonging, and power.
4. Elevate the role of young people as solutions-providers to their own problems and those of their communities/society as a whole.
5. Help define issues affecting youth; identify risk and protective factors; develop and test prevention strategies like violence prevention; and ensure replication and widespread adoption of effective practices.
6. Elevate the voices of marginalized youth in shaping the policies, programming and services that affect them.
7. Are supported by evidence and informed by culturally responsive practice that has the potential to enhance the greater public good.
8. Promote intentional dialogue and reflection between youth and adults.
9. Engage youth and adults who receive benefits in performing evaluation activities and shaping evaluation findings.
10. Help develop new and/or expanded youth policies, practices and/or programming.

PROJECT GRANT CATEGORIES

Youth Program conflict resolution and restorative justice project grants are awarded annually, based on availability of funding, in two categories:

- **Project Implementation Grants** are awarded to centers who already have a clearly defined project, a committed partner, a funding plan that includes a required 100% match and ability to undertake data collection and evaluation with MOPC.
- **Project Development Grants** are awarded to centers who are still conceptualizing projects and exploring potential project partnerships and funding.

PROJECT GRANT CRITERIA

Youth projects funded through implementation grants and development grants must include at least one or more of the following methods:

peer mediation,
youth violence prevention
conflict resolution skill-building
restorative justice processes
restorative practices
conflict coaching
facilitation
juvenile diversion
re-entry mediation
conflict transformation through art, photography, storytelling, etc.

Grant-funded projects aligning with Youth Principles must aim to build knowledge and skills of youth (as mediators, trainers, intervenors, circle keepers, conflict coaches, facilitators, etc.) and/or build infrastructure to support youth in these roles. Priority is given to projects seeking to enhance or scale-up existing initiatives, projects involving marginalized and at-risk youth, and youth services, courts and/or law enforcement partner agencies, and projects that have the potential for broad social impact and replication.

FY 2019 YOUTH PROGRAM FUNDED PROJECTS

In FY 2019, MOPC awarded project grants to all twelve centers: five project implementation grants with match requirements and eight development grants totaling \$125,000 (see list below). The implementation grants raised a total of \$60,000 in matching funds and in-kind donations.

Project Implementation Grants

Martha's Vineyard Mediation Program, Inc., Vineyard Haven (Dukes County) - \$15,000

Each one Teach one: Wampanoag youth and elders research and preserve tribal legacy of conflict resolvers project with Aquinnah Cultural Center

In partnership with the Aquinnah Cultural Center, this program provided mediation training to thirteen youth, six of whom hold tribal membership. Following training, five youth became youth mediators. Others contributed to research historical and anthropological knowledge about conflict resolution approaches within the Aquinnah tribe, or worked on developing a youth-oriented mediation role-play video. Among training participants, 80% indicated that the training made a difference in their life, and 70% reported an increased knowledge in Wampanoag history and legacy.

Mediation Services of North Central MA, Inc., Fitchburg (Worcester County) - \$15,600

Conflict Resolution Skills Development through Mediation & Mentoring at Sizer Charter School and The Boys & Girls Club of Fitchburg & Leominster

This grant supported the continuation of the peer mediation program at the Sizer Charter School. In FY 2019, 69 referrals were made to the program and 31 mediations took place, an increase from the prior school year. Additionally, a professional development training was provided to faculty and staff to introduce the program as well as cover conflict resolution skills. Curriculum was delivered to health classes about conflict and communications skills. The new partnership with the Boys & Girls Club of Fitchburg and Leominster worked to establish a peer mediation program at the club. Youth were trained as mediators and staff helped to establish the coordination procedures with center staff. Club staff were also trained in dealing with conflict.

Middlesex Community College Law Center, Lowell (Middlesex, Essex, Suffolk Counties) - \$25,000

Expansion of Lowell High School Peer Mediation Program to Sullivan Middle School and introducing Restorative Justice as a future component of the program, and development of a Restorative Justice program with the Middlesex DA's Office

Seventeen students were trained as peer mediators, including students who speak Spanish, Portuguese,

and Swahili. The program received 32 referrals and held 18 mediations. In addition, the program coordinator designed and launched the What I Need class (WIN) which recruited sixteen students in its first year. The program, running 90 minutes a week for five weeks, taught students with recurring conflicts in the school how to manage conflict more productively. They were taught self-awareness, conflict resolution and restorative practices. In addition, the center worked on the development of a Restorative Justice program with the Middlesex District Attorney's Office for youth offenders.

North Shore Community Mediation, Beverly (Essex County) - \$20,000

Peer Mediation and Restorative Justice Circles in partnership with Amesbury Middle and High Schools and Salem Academy Charter, & development of a Restorative Justice program with Lynn YMCA

Restorative Circles were held seven times at Amesbury High School, as well as a parent training on communicating with teens. At Amesbury Middle School, the Peer Mediation Program continued with student led efforts to market the program and raise funds. At Salem Academy Charter, all ninth grade students participated in a conflict resolution workshop, student mediators promoted the program among their peers, and a new cadre of students was selected to be trained for the coming school year. The funding provided through this grant allowed the schools to continue to support these programs despite tight budgets. One of the student circle leaders reported, "When I facilitate a restorative circle, I feel like a leader that will make a difference in the community." The peer mediation programs received 42 referrals in total. Additionally, bonus award funds were used to develop a program with the Lynn YMCA for restorative practices.

The Mediation & Training Collaborative, Community Action Pioneer Valley, Greenfield (Franklin, Hampden, Hampshire Counties) - \$25,000

Restorative Practices Resource Mapping, Training and Program Support for schools in the Pioneer Valley in partnership with the Franklin Regional Council of Governments

The center worked with Great Falls Middle School to strengthen the peer mediation program, resulting in 14 referrals and further skill building for the eighth-grade mediators. Three professional learning community (PLC) sessions were held in FY 2019 and included staff and student leaders from six schools in the region. Additionally, an assessment was conducted of Franklin County schools resulting in a mapping process to represent the integration of restorative practices in the schools. As a result of these efforts, 100% of schools in the county were reached, and more than 20% participated and received training and support. The PLC developed a sense of community and imparted important skills upon school staff.

Project Development Grants

Berkshire County Regional Housing Authority Mediation Program, Pittsfield (Berkshire County) - \$5,000

School conflict resolution programs involving students, teachers and parents within the Pittsfield Public School District

Cape Mediation, Orleans (Barnstable and Nantucket Counties) - \$5,000

Family mediation program for Children Requiring Assistance (CRA) cases with the Barnstable Juvenile Court and the Family Resource Center and peer mediation program at Nauset Regional High School serving the Lower Cape

Community Dispute Settlement Center, Cambridge (Middlesex, Norfolk, Suffolk Counties) – \$5,000

Conflict resolution skills workshops for young girls to earn a “patch” in partnership with the Girls Scouts of Eastern MA, and peer mediation trainings in partnership with a charter high school in East Boston

Family Services of Central Massachusetts Mediation Program, Worcester (Worcester County) - \$5,000

Program to deliver wrap-around conflict resolution and restorative justice services and trainings for youth in the Worcester area

Greater Brockton Center for Dispute Resolution, Brockton (Plymouth, Bristol Counties) - \$5,000

Conflict resolution skills for early to pre-teens for the afterschool program of the Learning Express Children’s Learning Center in W. Bridgewater

Metropolitan Mediation Services, Brookline (Suffolk, Middlesex, Norfolk counties) - \$5,000

Conflict resolution services and restorative practices for students and staff at Pine Manor College as model for cultivating programming with higher education

Metro West Mediation Services, Framingham (Middlesex County) - \$5,000

In-school mediation program for student conflicts at a middle school in Framingham

YOUTH PROGRAM RESEARCH

Youth project grants are an opportunity for centers and MOPC to work together to gather data to inform programming and research and to support fundraising. The goals of these projects are twofold: (a) to address youth/community needs through community dispute resolution and restorative practices in order to implement long-term solutions to pressing youth-related public problems; and (b) to demonstrate accountability and learning while also conducting advocacy to diversify funding sources in order to promote long-term sustainability of community mediation centers and their youth-focused initiatives.

To help with efforts to evaluate peer mediation projects funded under the program, North Shore Community Mediation Center administered a survey to 83 students and 34 staff from Amesbury High School, Amesbury Middle School and Amesbury Innovation High in May 2019. The results reveal the impact of peer mediation services, with 82% of the staff at Amesbury High School, Amesbury Middle School and Amesbury Innovation High School indicating that peer mediation is effective in helping

students resolve their conflicts. Thirty-four percent of the students felt mediation helped them avoid disciplinary action or punishment. Over half, or 58% of the students in Amesbury Middle, from grades six through eight felt that peer mediation provided them a chance to be listened to, and 55% felt that they were able to tell their side of the story about what happened during peer mediation. Forty-seven percent of the students felt that mediation helped them understand what the other student(s) was/were going through. Peer mediation offers youth a chance to do that with the help of a mediator. Fifty-three percent of the students said this is why they used peer mediation.

TMTC's restorative practices project was also evaluated. All 15 participants reported having gained higher skill levels as a result of participating in three sessions of restorative practice trainings. This included 13 youths representing two schools. Participants rated themselves as having higher skill levels with active listening (7 out of 15 rated high, 7 out of 15 rated medium) and mediation/conflict resolution (6 out of 15 rated high, 7 out of 15 rated medium). Other ratings included Nonviolent Communication (4 out of 15 rated high, 9 out of 15 rated medium); Restorative Circle keeping (3 out of 15 rated high, 6 out of 15 rated medium); Group facilitation (5 out of 15 rated high, 7 out of 15 rated medium); Working with oppression/social justice (4 out of 15 rated high, 6 out of 15 rated medium); and Motivational interviewing (2 out of 15 rated high, 4 out of 15 rated medium).

Evaluation of the Youth Mediation Program of the Martha's Vineyard Mediation Program involving Wampanoag youth was conducted through pre and post training surveys that revealed that 80% of the youth now understood various components of mediation and believed that the training made a difference in their lives. Seventy percent of the youths indicated that the youth conflict resolution training program, which strove to uncover traditional Wampanoag conflict resolution practices has helped increase knowledge of Wampanoag history and legacy and increased knowledge of conflict resolution (20%). Trainees commenting on the program stated:

"We don't get to do this kind of work in school."

"I wish we could keep doing this training all summer."

"I am a tribal person. This training made me proud to be Native American."