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### Massachusetts Community Mediation Center Grant Program: Fiscal Year 2020 Report & Evaluation

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#### Recommended Citation

Massachusetts Office of Public Collaboration. (2020, December). Massachusetts Community Mediation Center Grant Program: Fiscal Year 2020 Report & Evaluation. Boston, MA: Massachusetts Office of Public Collaboration, University of MA Boston

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## **EXECUTIVE SUMMARY**

The Community Mediation Center Grant Program (CMC Grant Program, Grant Program, or Program), administered by the Massachusetts Office of Public Collaboration (MOPC), embodies the state's commitment to achieving broad state-wide access to community mediation for the resolution of disputes (see MGL c.75, §47). Legislative appropriations provide the Grant Program with funds to distribute to qualified community mediation centers (centers) in the form of operating grants. The Grant Program received \$1,090,000 in state funding for its operation during Fiscal Year (FY) 2020, and a total of \$848,000 in grants was awarded to 12 community mediation centers based on a performance-based application process.

FY 2020 was an eventful year for the Grant Program and center grantees. During the first two-thirds of the 2020 fiscal year, administration of the Grant Program and service delivery from participating centers functioned as expected. The emergence of the coronavirus pandemic and attendant restrictions in March 2020 complicated Grant Program administrative responsibilities and depressed the demand for and delivery of center services. Funded centers and Program administrators responded to pandemic-related exigencies by making accommodations that included focusing on-line work, and the Grant Program continued to operate.

### **Community Mediation Center Grant Program administration:**

Following completion of the FY 2020 grant application process, the administrative tasks needed for subsequent Program functioning were addressed. Additionally, several noteworthy developments were undertaken under Grant Program auspices. A biannual grant-application process was approved for implementation in FY 2021 to increase the efficiency and simplicity of the Program's application procedures. In order to prevent conflicts of interest, or bias, or the appearance of either from intruding upon the interactions between the grant-maker – MOPC – and centers, a conflict of interest policy was adopted by MOPC and communicated to the funded centers. MOPC and centers engaged in a diversity initiative that involved an MOPC-sponsored workshop on cultural humility, the opening of an inquiry into the impact of volunteerism on mediator diversity, as well as other actions. Programs to address the needs of the youth community and the prison population were promoted through the award of program operating grants to involved centers under the Grant Program. MOPC supplemented centers' outreach efforts to raise public awareness and utilization of community mediation by launching a website and Facebook page devoted to community mediation. Progress was made towards updating the current data-tracking system used for Grant Program reporting purposes to a cloud-based system. And MOPC and funded centers joined forces to advocate for \$1,290,000 in state support for the Grant Program for the coming 2021 fiscal year.

The economic dislocations caused by the pandemic introduced uncertainty about the state's economy, which, in turn, left the Grant Program's FY 2021 financial situation unresolved. Nevertheless, an FY 2021 grant application process was set in motion, which constituted a streamlined version of the original process. Grants were awarded to the same 12 centers as the previous year, with caveats about funding availability that reflected the straitened state economy.

## **Impact of Grant Program participation on centers:**

Centers' involvement with the Grant Program affected both their financial situation and the actions they performed in order to comply with community mediation standards under the Twelve-Point Model. Grant Program grants were critical to the continued economic viability of centers. The \$848,000 collectively awarded to the 12 centers amounted to one-third of centers' total income. On the whole, none of the centers' other revenue sources provided them with as much income as did the Grant Program. The effect of Program grants on various centers' operating conditions was largely positive. Staff numbers and staff hours each increased at seven centers and remained stable (unchanged) at another four and five centers, respectively.

In FY 2020, centers continued their practice of meeting parties' and the community's need for social harmony consisted with community mediation standards under the Twelve-Point Model. Centers opened 2,824 referred cases, fewer by 29% and 30% in referred cases than each of the previous two years. Similarly, FY 2020 intake and mediation numbers were lower than in the past. Even so, nearly 84% of this fiscal year's 2,758 intakes were mediated.

Centers offered a range of services to deal with the various types of disputes that occupied members of the community. Parties received center services irrespective of the level of conflict involved. Collectively, centers provided assistance to parties for dispute types in nine of eleven major dispute categories, i.e., business, family, government, housing, interpersonal, neighborhood, school, workplace, and juvenile/youth (non-school). For the most part, funded centers experienced growth in the types of dispute they handled during FY 2020. While the bulk of centers' conflict resolution services consisted of some form of mediation, other conflict resolution methods were also employed, such as conflict coaching, restorative practices, and facilitation. The variety of dispute resolution methods at their disposal allowed centers to tailor their services to the needs of different population groups. Restorative practices were largely used by centers to serve the youth population. Reentry mediation – specifically, Inclusive Listening – were provided by centers to inmates nearing release from prison.

Pandemic-imposed constraints on personal interactions and the closure of the courts and other institutions in March 2020 presented centers with the challenge of reinvigorating the public's interest in using their dispute resolution services. Rising to the pandemic challenge, centers honed their remote technology skills, and all 12 centers offered remote mediation services. During this period, centers received 128 referrals of cases for remote mediation, 56 of which were mediated and produced 49 agreements.

Centers promoted access to their services by eliminating fees in 93% of 2,758 cases. Although 107 locations were available for centers' mediation sessions, court premises were the most frequently used sites by centers, and, consequently, court hours usually prescribed the timing of the sessions. The focus on the use of remote services during the pandemic tended to minimize time and place as obstacles to mediation except for parties whose lack of access to the

internet or inexperience with the relevant technology hindered their ability to obtain mediation services.

Centers primarily focused on mediators' professional development to preserve the quality of their services. Volunteers, particularly volunteer mediators, were vital to the delivery of services from funded centers, and the number of volunteer mediators increased at eight centers because of centers' outreach activities – principally training, and increased at four centers due to Grant Program funding. Centers' diversity efforts led to an increase in mediator diversity at six centers and maintained the status quo at the other six centers. Incomplete demographic data concerning center mediators indicated that 66% were female, 72% were White, 11% were Hispanic/Latino, 8% were African American/Black, and 3% were Asian – proportions that were roughly comparable to the share of these racial/ethnic groups in the state's population.

To increase public awareness and utilization of their services, funded centers engaged in an assortment of endeavors (besides dispute resolution), including activities in which organizations and community members were service users – such as trainings and consultations, as well as activities in which organizations and community members were information recipients – such as media participation and presentations. Approximately 96,000 community members were given the opportunity to learn about mediation and center services through centers' various FY 2020 outreach activities.

### **Impact of Grant Program grants on the community:**

The Grant Program benefitted the totality of Massachusetts communities by generating an estimated \$XXXXX return on the state's investment of \$1,090,000. On an individual level, benefits accrued to community members from across the state who received centers' services.

A total of 5,332 parties, including 426 young persons, who were served by funded centers during FY 2020 were geographically, financially, and racially/ethnically diverse. Majorities of the served parties resided in nine counties – Berkshire, Barnstable, Middlesex, Suffolk, Worcester, Plymouth, Dukes, Essex, and Franklin. Based on survey responses, the racial/ethnic origins of these parties spanned the entire array of tracked ethnic/racial census categories. An overwhelming number of the parties, though, belonged to four groups, with a large majority of 61% of parties identifying themselves as White, and minorities self-identifying as Hispanic/Latino (16%), African American/Black (13%), or Asian (4%). The scant 16% of the population served by funded centers in FY 2020 that furnished information about their finances indicated that their incomes ranged from less than \$10,000 to more than \$65,000.

Out of the group of 2,320 cases mediated in FY 2020, disputes were resolved through agreement for an estimated 2,418 parties in 1,709 cases, producing a 73.7% agreement rate. The FY 2020 agreement rate was similar to agreement rates from the previous two years. Moreover, an agreement rate of 87.5% was generated by the FY 2020 sub-group of 56 remotely mediated cases. All these agreement rates were in the upper half of the range of typical mediation agreement rates of 66% to 80% from across the nation. As for cases involving consumer

disputes, the agreements achieved through mediation led to the return of \$2,393,632.68 to consumers.

A resounding majority of 90% of respondents were satisfied with their mediation, 89% were willing to recommend mediation to others, and 78% expressed a preference for mediation over other forms of dispute resolution. Even when the mediation was virtual, parties tended to favor the process. Out of 32 surveyed remote mediation participants, satisfaction with the remote mediation process characterized 94%, recommendations would be available from 78%, and 66% preferred remote mediation over alternative dispute resolution methods.

Substantial minorities of nearly one-third to just under one-half of respondents were positive about mediation's impact on them as measured by post-mediation changes in parties' feelings of tension or conflict, ability to handle disputes, and interactions with the other party that involved their communication, relationship, and opinion of the other party. Comparably sizable minorities of party respondents reported no mediation impact, that mediation left matters unchanged. Few parties – at most 10% – experienced a negative impact from mediation. For another 10%-13% of parties, such impacts did not apply to their situation.

**In conclusion:** The Grant Program demonstrated its value for Massachusetts communities by supporting the efforts of funded centers to meet communities' dispute resolution needs in accordance with community mediation standards during both the ordinary course of events in FY 2020 and the extraordinary circumstances brought on by the pandemic.

### **Recommendations:**

The state and other organizations were encouraged to fund the Grant Program and thereby sustain the Program's support for centers that contribute to social harmony through their dispute resolution services. Courts were urged to make greater use of centers' remote services, and centers were advised to publicize the availability of their remote services more widely on social media. Measures aiming to improve the collection of mediators' demographic data, provide for mediator participation in policy and decision-making discussions, promote sharing of mediators' remote mediation experience, and clarify communications about program funding were also recommended.

## **I. INTRODUCTION**

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Massachusetts' commitment to promoting broad, state-wide access to community mediation was demonstrated in 2012 by the passage of MGL c.75, §47, the enabling statute of the Community Mediation Center Grant Program (CMC Grant Program Grant Program, or Program) and by continued state support for the Grant Program throughout the subsequent eight years of the program's existence. Most recently, the Grant Program received \$1,090,000 in state funding for its operation during Fiscal Year (FY) 2020. A total of \$848,000 in operating grants was awarded through the Grant Program, as administered by the Massachusetts Office of Public Collaboration (MOPC), to 12 community mediation centers (centers) based on a performance-based application process that involved, in part, the demonstration of fulfilled eligibility criteria, a proven track record, and delivery of dispute resolution services to the community.

## **II. COMMUNITY MEDIATION CENTER GRANT PROGRAM ADMINISTRATION**

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During the first two-thirds of the 2020 fiscal year, the Grant Program operated as expected. Following completion of the FY 2020 grant application process, the administrative tasks needed for subsequent Program functioning were addressed by the Program Manager under the direction of the Executive Director and with cooperation from participating centers. Annual service contracts with the 12 successful center applicants were formed; grant monies were disbursed on schedule to centers; guidance about the feasibility of centers' SMART goals – i.e., specific, measurable, achievable, relevant, and time-bound goals relevant to fulfilling community mediation standards – was provided; advisory committee (PAC) meetings were held; monthly meetings with funded centers were conducted, information about Grant Program matters was conveyed; program development was pursued; reporting obligations were met; legislative support was sought; and so on. Meanwhile, the 12 funded centers proceeded not only to provide dispute resolution services, trainings, and other educational endeavors to members of the public, but also to raise public awareness of dispute resolution and engage with other organizations. Beginning in mid-March, the final third of FY 2020 was spent on maintaining the operations and services offered under Grant Program auspices in the face of the challenges posed by the coronavirus, Covid-19, pandemic and the attendant financial uncertainty.

### **A. GRANT-MAKING:**

#### **1. The grant application process:**

The grant application process or GAR initiated annual grant-making. Accordingly, for FY 2020 grants, center applicants were required to demonstrate compliance with the set of community mediation standards set forth under the Massachusetts Twelve-Point Model of Community Mediation (see Table 1)<sup>1</sup> and provide information about additional matters,

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<sup>1</sup> Basis for FY 2020 baseline award of \$24,000 per qualified center, for a total of \$288,000.

including the quantity of services provided, the achievement of their SMART goals,<sup>2</sup> collaboration efforts,<sup>3</sup> the status of programs/projects,<sup>4</sup> center budgets, fulfillment of match requirements, etc.

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

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

After assessing the applications, a grant review committee presented recommendations about worthy applicants for consideration by the MOPC Executive Director, who made the final determination about awardees and award amounts. The same 12 centers that were awarded grants in FY 2019 also received grants in FY 2020 (Table 2).

<sup>2</sup> Basis for determination of FY 2020 performance-based awards, totaling \$341,500 and ranging from \$17,690 to \$35,800 per center.

<sup>3</sup> Totaling \$30,500 and ranging from \$1,500 to \$5,000 per center in FY 2020.

<sup>4</sup> Basis for \$188,000 in total FY 2020 optional awards to centers for their youth projects, ranging from \$5,000 to \$35,000.



**Table 2. FY 2020 funded centers, center status and the counties of parties served.**

<b>Funded community mediation center</b>	<b>Center status</b>	<b>Counties of parties served by center</b>
Housing and Consumer Mediation Center ( <b>BCRHA</b> ) in Pittsfield	Parent organization: Berkshire County Regional Housing Authority	Berkshire*
Cape Cod Dispute Resolution Center ( <b>Cape Mediation</b> ) in Orleans	Independent non-profit affiliated with Community Action Committee of Cape Cod & Islands	Barnstable,* Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester
Community Dispute Settlement Center ( <b>CDSC</b> ) in Cambridge	Independent non-profit	Bristol, , Essex, Hampden, Middlesex,* Nantucket, Norfolk, Plymouth, Suffolk
Family Services of Central Massachusetts Mediation Program ( <b>FSCM</b> ) in Worcester	Parent organization: Family Services of Central Massachusetts and affiliated with the Seven Hills Foundation	Hampden, Middlesex,* Norfolk, Plymouth, Suffolk, Worcester*
Greater Brockton Center for Dispute Resolution ( <b>GBCDR</b> ) in Brockton	Independent non-profit	Bristol, Norfolk, Plymouth,* Suffolk, Worcester
Martha's Vineyard Mediation Program ( <b>MVMP</b> ) in Vineyard Haven	Independent non-profit	Dukes*
Middlesex Community College Law Center ( <b>MCC</b> ) in Lowell	Parent organization: Middlesex Community College	Essex, Middlesex,* Suffolk, Worcester
MetroWest Mediation Services ( <b>MWMS</b> ) in Framingham	Independent non-profit	Essex, Middlesex,* Norfolk, Plymouth, Suffolk, Worcester
Metropolitan Mediation Services ( <b>MMS</b> ) in Brookline	Parent organization: Brookline Community Mental Health Center	Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk,* Worcester
Mediation Services of North Central MA ( <b>MSI</b> ) in Leominster	Independent non-profit	Middlesex, Suffolk, Worcester*
North Shore Community Mediation Center ( <b>NSCMC</b> ) in Beverly	Independent non-profit	Bristol, Essex,* Hampden, Middlesex, Norfolk, Plymouth, Suffolk, Worcester
The Mediation & Training Collaborative ( <b>TMTC</b> ) in Greenfield <sup>5</sup>	Parent organization: Community Action of Pioneer Valley	Berkshire, Bristol, Essex, Franklin,* Hampden, Hampshire, Middlesex, Worcester

\*County of greatest number of parties served by the center.

**a. Simplified GAR process:**

Through the years, centers complained about the time-consuming burden imposed by the application process. Over time, MOPC responded by making changes to simplify the process. As a result, a number of the funded centers agreed that the burden had been lessened but not that it

<sup>5</sup> TMTC will be replaced by an independent nonprofit successor, the Collaborative Resolutions Group (CRG), in July 2020.

had been eliminated. To increase the efficiency and simplicity of the GAR process even more, MOPC, with approval from funded center administrators and the university, adopted a multi-year GAR process to start with FY 2021 grant-making. Under this plan, the GAR would cover two years' worth of awards instead of just one in a biannual grant-application cycle although contracting with funded centers would remain annual. This two-year cycle would consist of a comprehensive application process in the first year and an abbreviated process during the second or interim year. Thus, during the first year of the two-year cycle, the applicant center would be required to provide performance data via MADtrac (a case management system) reports, supply budget and staffing information, and furnish a collaboration narrative, optional grant applications for the youth and reentry mediation programs, information about match requirements, and demonstrate compliance with a simplified Twelve-Point Model,<sup>6</sup> among other matters. Submission of centers' SMART goals would be required separately following the GAR process. For the second or interim year of the two-year process, detailed confirmation of compliance with the 12-point model would not be required, but performance data and progress on SMART goals would still need to be provided. These SMART goal updates would involve neither self-assessments nor ratings. At a later date, SMART goals would need to cover a two-year period.

**b. Pandemic-induced modification of the FY 2021 GAR process:**

In order to ease the difficulties confronting centers due to pandemic-caused constraints on in-person interactions and on access to institutions like the courts, schools, correctional facilities, and businesses, MOPC adopted an application process for FY 2021 grant-making that roughly corresponded to the interim year of the two-year application cycle. By May 2020, the university approved MOPC's request to waive the planned GAR for FY 2021 grant-making and to apply the results of FY 2020 grant-making to FY 2021 (depending on funding). In the event that state funding of the Grant Program for FY 2021 differed from the previous year, each center would receive an award amount in FY 2021 corresponding to the proportion of the FY 2020 grant total of \$793,000 that was represented by the center's FY 2020 award. However, centers would still be required to provide their performance and other activity data in annual MADtrac reports, budget and staffing information, SMART goal progress, collaboration accomplishments, and a completed year-end survey. At least one center approved of the abbreviated GAR process, saying it was "so pleased that the yearly grant process was not necessary this year, we hope this level of reporting will suffice in the future."

**B. BUDGETARY MATTERS:**

**1. Disbursement of FY 2020 award monies:**

Besides the \$793,000 destined for the center awardees, the FY 2020 state funding of \$1,090,000 included \$100,000 to cover more of the Grant Program administration costs in order

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<sup>6</sup> MADtrac data will suffice to demonstrate compliance with points (1), (5), (6), (7), (8), and (12). Compliance with the other points – namely (2), (3), (4), (9), (10), and (11) – may be confirmed through narratives or charts. Documentation of compliance with the Twelve-Point Model standards or points would not be required.

to offset MOPC's losses in operational funding from the university. However, a November 2019 announcement from the university about the partial restoration of this cut prompted MOPC to tap the \$100,000 for extra money to centers. Accordingly, 11 centers each received \$5,000 bonus awards (the 12<sup>th</sup> center refused the bonus) to support youth projects. Thus, a final sum of \$848,000 was awarded to the 12 centers for FY 2020, comprising 78% (specifically, 77.8%) of FY 2020 funds and providing MOPC with a slightly higher portion than the usual 20% of state funding for program administration costs. The remainder of the \$100,000 was held in reserve to meet MOPC's anticipated need for additional staffing for the proposed spring 2020 expansion of programs under the Grant Program.

## **2. Budget advocacy for FY 2021 funding:**

MOPC and funded centers joined forces to persuade state legislatures to continue to support the Grant Program in the coming 2021 fiscal year. Besides seeking advice and support from individual legislators and staff throughout FY 2020, MOPC – in partnership with centers – continued its practice of holding an event at the state house to brief legislators and staff about the amount of money requested and the value of the Grant Program for Massachusetts communities. The budget request for FY 2021 was \$1,290,000, which consisted of \$1,090,000 in level funding augmented by an additional \$200,000 to support a reentry mediation program. At the January 21, 2020 briefing, introductory remarks made by legislators attested to the Grant Program's benefits. Senator Hinds talked about the problem of homelessness and centers' work with evictions; Representative Tucker drew on his law enforcement experience to recognize the value of the restorative justice approach adopted by centers; and both Representative Tucker and university dean David Cash applauded the return on investment achieved through the Grant Program. MOPC's presentation highlighted the reentry mediation program and the newly launched website, Resolution Massachusetts. Anecdotes about the use and impact of restorative practices on students were recounted by center staff, and by a school police officer, who described how her personal encounters with students and their parents had improved.

The close of FY 2020 left the fate of the budget request for FY 2021 Grant Program funding in limbo. The economic dislocations caused by the coronavirus pandemic introduced uncertainty about the amount of revenue that the state would collect. Consequently, interim state budgets were expected. Legislative budget analysts opined that the Grant Program would likely be included in the interim budgets because the Grant Program had a dedicated line item. Nevertheless, the Executive Director developed Program budget scenarios for 15% and 25% cuts in state funding that would still continue to provide funds to sustain center operations along with the operation of the youth and reentry mediation programs while maintaining an allocation of 80% in funding for center awards and 20% for program administration.

## **C. PROGRAM DEVELOPMENT:**

As MOPC and funded centers became aware of certain conflict resolution needs of communities along with the limited interest that funders – including legislators – had in supplying operational funding for mediation services, the scope of Grant Program grants was

expanded to include support for programming. At the November 2020 teleconference with MOPC and funded centers, for example, the MOPC Executive Director and the Program Manager “stressed that youth projects have been piloted since FY15 and re-entry work since FY17 and that both... were attractive to funders now.”<sup>7</sup> Even though awards directed towards programs were frequently characterized as program grants, officially they were operating grants that aimed to support the increase in centers’ operating expenses arising from the management of particular programs.

In common usage, programming expenses and operational expenses are distinguishable. An operating expense is “an expense incurred in carrying out an organization’s day-to-day activities”<sup>8</sup> while programming expenses “are those expenses incurred in order to deliver specific programs in accordance with the mission of a nonprofit entity.”<sup>9</sup> Non-programming expenses for non-profits like funded centers would cover, for instance, fundraising, management, and administration.<sup>10</sup> The rules governing the FY 2021 GAR instructed applicants that grants awarded under Grant Program auspices were only to be used to support center operations,<sup>11</sup> thereby situating so-called program grants within the category of operating grants and ensuring compliance with the statutory restriction on the use of Grant Program funds to centers’ operational needs.<sup>12</sup> Such “program grants” consequently amounted to program operating grants.

The community need for greater social harmony was addressed in FY 2020 through the Grant Program with the award of grants for centers’ youth projects. FY 2021 grantmaking included optional awards to centers for their participation in a reentry mediation program as well as for their youth projects.

### **1. Youth project grants:**

The youth project grant program was established under Grant Program auspices to support youth projects that sought to decrease youth conflict and strengthen youthful conflict resolution skills. The FY 2020 GAR process resulted in the award of \$133,000 in optional

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<sup>7</sup> Program Manager’s notes about the November 2020 group conference.

<sup>8</sup> See Business Dictionary, available at <http://www.businessdictionary.com/definition/operating-expenses.html>

<sup>9</sup> See Accounting Tools, available at <https://www.accountingtools.com/articles/2017/5/16/program-expenses#:~:text=Program%20expenses%20are%20those%20expenses,expenses%20and%20management%20%26%20administration%20expenses.>

<sup>10</sup> *Ibid.*

<sup>11</sup> “Funds received through the CMC Grant Program are intended solely to provide general support for centers to assist them in operating within the Twelve-Point Model of community mediation. Any Youth Project Grant funds awarded must be used solely for the designated project.”

<sup>12</sup> “The grants administered under this section shall be used solely to provide operational funding for centers to assist them in meeting the needs of local communities” (MGL c.75, §47(c)).

operating program grants to ten centers to develop new or to implement existing youth projects. Another \$55,000 was distributed to 11 centers to further support youth-oriented endeavors.

During Fiscal Year 2020, centers' youth projects achieved a certain degree of success before their derailment by the coronavirus pandemic in the final third of the fiscal year. At least three of the centers introduced restorative practices to young people. Two centers worked to educate young children about conflict management. Adolescents were afforded the opportunity from another four centers to learn about helping themselves or their peers manage conflict. Two centers engaged in developing school-based youth programming

Many of these youth projects ended early, curtailed by the pandemic-related closures of partner organizations. Meanwhile, the future of these projects remains uncertain because of such unknowns as funding availability, the duration of the pandemic, and the development of and participation in effective remotely programmed youth projects. Rising to the Covid challenge, centers honed their remote technology skills in anticipation of renewed interest in their youth projects. And despite the uncertain future of the youth project program, MOPC made plans to continue Grant Program support for this program during FY 2021. FY 2020 grant-making served as a model for the projected distribution of FY 2021 grants. Thus, \$133,000 was set aside for FY 2021 youth project grants, subject, however, to the shift in priorities whereby project implementation would be preferred over project development for grant award purposes.

## **2. Reentry mediation program:**

State and community concern over public safety motivated MOPC, in partnership with correctional facilities and centers, to establish a Massachusetts reentry mediation program in early 2018 with funding support from private foundations. Two years later, the feasibility of the reentry program was demonstrated by the collective delivery of a comprehensive array of services from six participating funded centers to inmates at eight correctional facilities, including outreach in the form of informational presentations, the acquisition of relevant party information and consent through intakes and screenings, the performance of mediations, and the collection of data from parties for evaluation purposes.<sup>13</sup> As foundation support for the reentry mediation program came to an end in FY 2020, MOPC decided to sustain the program by awarding FY 2021 optional program operating grants to funded centers that participate in the program. And so, the sum of \$200,000 out of the FY 2021 budget request for \$1,290,000 was slated for support of the operation of the reentry program through grants, varying in amount from \$2,500 to \$20,000, to be awarded to centers according to the number and types of correctional facilities served, the quantity of available cases, center capacity, as well as other factors. For the time being, the reentry mediation program is on hiatus due to the exclusion of outside programs and visitors from correctional facilities on account of the pandemic.

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<sup>13</sup> Assistance was provided by another two centers.

#### **D. ADMINISTRATIVE ACTIONS THAT FURTHERED CENTERS' COMPLIANCE WITH COMMUNITY MEDIATION STANDARDS:**

MOPC was pro-active in encouraging centers to conform to community mediation standards.

##### **1. Conflict of interest policy:**

Concerned that conflicts of interest might emerge from the participation of the grant-maker, MOPC, in the affairs of grantee centers, MOPC adopted a conflict of interest policy to prevent conflicts of interest or bias or the appearance of such intrude upon its interactions with centers. The policy specified the circumstances constraining MOPC participation in center events and activities as well as those in which such participation would be permissible. The consequent clarification of the limits on MOPC influence on centers arguably provided the setting for MOPC's FY 2020 administrative actions to support center compliance with community mediation standards.

##### **2. The mediator diversity initiative:**

Consistent with community mediation's historical legacy of using trained members of the community as mediators,<sup>14</sup> trained volunteers at all the funded centers frequently functioned as mediators. Although the Grant Program's enabling statute defined community mediation centers partially in terms of the deployment of trained volunteers to provide mediation services, the nature of the volunteers' precise role in furnishing those services was not detailed.<sup>15</sup> The program administrator, MOPC, interpreted that provision as requiring centers to use at least some volunteers as mediators in order to qualify for grants. Despite the problems experienced by some centers in recruiting volunteers due to the distressed economic conditions in their regions, MOPC found that the rate of volunteerism at funded centers was no longer a matter of concern. Mediator diversity, long sought-after, continued to preoccupy centers and MOPC.

As a result of MOPC's decision to require compliance with community mediation standards in the Twelve-Point Model as a condition of eligibility for receiving Grant Program grants,<sup>16</sup> funded centers were responsible for ensuring that community members not only received training in order to serve as volunteer mediators at the center but also reflected the community's diversity (see Table 1). Throughout the years of their participation in the Grant Program, funded center administrators strove to diversify their mediator pool. The experience of

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<sup>14</sup> See Ray, L. (1997). Community mediation centers: Delivering first-class services to low-income people for the past twenty years, *Mediation Quarterly*, 15:1, 71-77.

<sup>15</sup> See MGL c.75, §47(a).

<sup>16</sup> MOPC, as Grant Program administrator, was authorized by the program's enabling statute to formulate rules for "the establishment of a quality assurance system for mediator excellence." (MGL c.75, §47(b)).

many centers, though, was that volunteering and diversity were occasionally at odds with one another.

To advance the efforts of funded centers to diversify their mediator pool, MOPC presented a workshop in November 2019 for center directors and case coordinators on cultural humility, a view of diversity that encompassed both individual and organization perspectives which included individual self-reflection and organizational accountability. Workshop participants used the occasion to discuss their “awareness that not all community members have the time and financial ability to volunteer as mediators – which is why there is a predominantly white and affluent demographic among their mediators.”<sup>17</sup> Moreover, a study involving Massachusetts mediation service providers, including some of the centers, noted the similarity between the racial/ethnic and socio-economic characteristics of mediators and those of volunteers and the related lack of diversity.<sup>18</sup> The possible impact of volunteerism on diversity was reserved for future consideration by MOPC and centers. In the interim, an MOPC manager embarked on a listening tour of funded centers to explore the issue of diversity relative to centers’ interests and needs as well as their interest in MOPC’s assistance in furthering the diversity initiative. MOPC planned to work with centers and follow up on these conversations during the next fiscal year.

### **3. MOPC actions to reinforce centers’ service to the community:**

MOPC encouraged funded centers’ endeavors to fully address the community’s dispute resolution needs by supporting their efforts to increase their conflict resolution methods, to serve more segments of the population, to increase public awareness of themselves and mediation, and to collaborate with other organizations to more effectively respond to their community.

#### **a. Supporting centers’ efforts to increase their dispute resolution methods while expanding the number of population groups served:**

In order to fulfill community mediation standards, centers were urged to “provide a range of mediation services to address community needs” and “provide mediation, education and other conflict resolution services to community members who reflect the community’s diversity....” (see Table 1). So, beginning a year or two ago and continuing to the present, centers that added facilitation, restorative practices, and conflict coaching to their repertoire of conflict resolution services received credit towards their performance-based grants. At centers’ request, conciliation

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<sup>17</sup> Program Manager’s notes from spring 2020 PAC meeting, citing the Executive Director.

<sup>18</sup> “The mediation rosters of many of the providers tended “to be skewed towards including predominately white, predominately higher-income professional,” even as the volunteers at many providers “tend[ed] to belong to a relatively higher income group to be able to forgo paid work, and generally have many years of experience.... ...[and] most of the volunteers represent privileged white communities, including many who are quite advanced in their careers.” Jeghelian, S., Palihapitiya, M., & Eisenkraft, K. (2019, July). *Using court-connected ADR to increase court efficiency, address party needs, and deliver justice in Massachusetts*. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston, p. 71.

services were added to the list of center services that would be counted towards performance grants in FY 2020.

The use of restorative practices and coaching was further reinforced this fiscal year by an MOPC-sponsored webinar on implementing conflict coaching programs in September 2019 and by the award of program operating grants for projects that employed restorative practices directed at youth. Moreover, the December 2019 and January 2020 trainings in the Inclusive-Listening model of mediation held by the Program Manager to prepare centers for participation in the reentry mediation program further expanded the types of services offered by centers. As a result, centers acquired the ability to serve more population groups. The restorative justice and reentry mediation initiatives were instrumental in drawing young people and inmates into the ambit of center services.

To combat the shrinking of the population receiving center services resulting from pandemic constraints during the final third of FY 2020, centers turned to the use of remote mediation. MOPC supported this move by hosting an April 2020 videoconference in which center administrators discussed their experiences with the challenges presented by the use of remote mediation and shared their solutions. Suggestions were offered about ways to inform the public, including the courts and other referral sources as well as interested parties, about the availability of center services despite restrictions on in-person meetings. Logistics for accomplishing intakes, ensuring mediation confidentiality, gaining consent, getting party signatures, receiving payments for services, arranging caucuses, conducting sessions, etc. were discussed. Sources of information about using the technology for trainings, meetings, and other activities as well as other resources were identified. The Program Manager's notes on the information shared at the meeting were made available to centers through email and as a google document.

**b. MOPC's actions to further center actions to increase public awareness of mediation and center services:**

In an effort to supplement centers' outreach activities to heighten public awareness of centers' dispute resolution services and increase access to mediation services to more population groups, a new website – Resolution Massachusetts, constructed under the direction of the Program Manager with expertise furnished by the marketing firm, Catchafire – was launched in January 2020. The purpose of the website was to provide a source of information about center services, contact information, volunteering prospects, and so on, all to raise awareness and increase utilization of center services. An accompanying Facebook page was developed by the Program Manager in spring 2020. To date, the website was showcased at the legislative briefing, and a press release about the website was issued. Efforts to increase traffic to these sites are ongoing.

**c. MOPC's actions to promote center collaborations that improve services to benefit the population served:**



Consistent with community mediation standards,<sup>19</sup> centers took advantage of the opportunity to grow more robust and innovative by collaborating with one another: “the collaborations and connection to a statewide network help us [the center] work smarter, give us support and tools needed to keep going, and enrich what we provide to whom.”<sup>20</sup> MOPC incentivized center collaboration by awarding grants for centers’ collaboration narratives in FY 2020 that varied from \$1,500 to \$5,000 for a total of \$30,500. During the 2020 fiscal year, centers collaborated with one another on at least four fronts: training opportunities, setting up peer mediation programs, meeting the challenge of pandemic constraints, and preparing to engage in reentry mediation. As a result of collaborating, center services may improve: “it [center collaboration] gives each organization a chance to share ideas, concepts and knowledge which helps to increase the level of service being provided all the way around.”<sup>21</sup> Ultimately, as people served by centers benefit from the improved services produced through collaborations and as center reputations are burnished, more people may turn to centers for assistance with handling their disputes.

#### **E. FULFILLING ACCOUNTABILITY THROUGH REPORTING:**

Accountability for implementing the Grant Program rested with MOPC as Program administrator. Pursuant to statute, accountability was demonstrated by the submission of reports about the Grant Program to the Program’s advisory committee and to specific government officials.<sup>22</sup>

##### **1. Reporting to the Program Advisory Committee:**

The Program Advisory Committee (PAC) – composed of representative community mediation stakeholders, the statutory recipient of periodic progress reports on Program developments from MOPC, met in the fall and spring of FY 2020. At its meetings, the committee was apprised about Program developments by the Program Manager, and members provided input about such policy matters as changes in GAR grant-making procedures, the development of a conflict of interest policy, and the inclusion of conciliation for performance grant purposes. Although PAC concerns about including conciliation – a dispute resolution process confined to attorney participants in a court setting – were outweighed by MOPC’s and centers’ interest in recognizing the breadth of center services, the committee’s recommendation that conciliation be

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<sup>19</sup> “Establish collaborative community relationships with other service providers to meet community needs” (see Table 1).

<sup>20</sup> Noted by TMTTC.

<sup>21</sup> Observed by MCC.

<sup>22</sup> MGL c.75, §47(h).

clearly defined was adopted.<sup>23</sup> Over the year, MOPC’s reporting obligation to the committee was fulfilled through the quarterly submission of written bulletins.

## **2. Reporting to government officials:**

MOPC was required to report annually about “the operations, activities and accomplishments” of the Grant Program and funded centers to the governor and to judicial and legislative officials.<sup>24</sup> To fulfill this requirement, the MOPC Research Unit produced an annual report for FY 2020 that delivered an account of center and Grant Program actions and outcomes through an evaluation perspective – a perspective which provided for an assessment of the value contributed to Massachusetts communities through the Grant Program. The submission of the FY 2020 evaluation report satisfies MOPC’s reporting responsibility to government officials.

Consistent with past practices, the FY 2020 report was based on data from centers’ MADtrac reports and other documents produced in response to GAR requirements, on information shared at meetings, and on internal office records. However, in FY 2020, data collection changes were made which affected the annual report. Additional changes that could impact future Program reporting were in the works.

### **a. Narrowing the range of illustrative data due to GAR changes:**

Historically, reporting on centers’ activities and accomplishments under the Grant Program relied heavily upon centers’ the section of the grant applications that demonstrated compliance with each of the twelve community mediation standards of the Twelve-Point Model. Moreover, each center’s description of actions taken to advance SMART goal progress – goals that typically applied to four community mediation standards – supplemented centers’ compliance accounts about their standard-conforming activities. By eliminating the need for full compliance validation during the interim year of the biannual grant-making process, fewer sources of examples to illustrate centers’ standard-conforming activities for the year’s annual evaluation report were available. Accordingly, interim year reporting would be limited to citing the center actions undertaken under the standards addressed by centers’ SMART goals, project reports, and collaboration narratives. Since FY 2021 grant-making was modeled on the new interim-year grant-making, the FY 2020 annual report relied on materials other than centers’ compliance accounts to find examples of center activities and accomplishments.

### **b. Center data tracking developments:**

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<sup>23</sup> The court’s Uniform Rule 2 definition of conciliation was chosen. The Program Manager’s notes for the May 2020 conference with centers was the source for the account of the PAC conciliation discussion.

<sup>24</sup> MGL c.75, §47(h).

Data about the types and quantities of cases and center activities were tracked and recorded by centers on MADtrac for such purposes as reporting. Difficulties with MADtrac maintenance and reliability roused interest in exploring the feasibility of updating MADtrac with a cloud-based system. After a year-long study, the consulting software developer presented, in June 2020, the requirements for developing a system that would be more user friendly while better accommodating center and Grant Program needs. One center’s reaction to this proposed change was to be “glad that MADtrac is being phased out.” Attention has turned to gauging the cost of producing and maintaining a new system and to acquiring funds for system development. The anticipated outcome of a new tracking system would include the production of a reliable database for the annual report.

### **III. IMPACT OF GRANT PROGRAM PARTICIPATION ON CENTERS**

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#### **A. DESCRIPTION OF FUNDED CENTERS:**

The twelve funded centers were all local organizations that sought to assist members of the community with resolving conflict irrespective of ability to pay for the services. Half the centers were independent non-profits and half were affiliated with a parent organization (see Table 2).

##### **1. Funded center staffing:**

On the year-end survey, centers indicated that their collective workforce consisted of 470 full-time, part-time, paid and volunteer staffers and mediators. Eighty-nine individuals – 40 paid full-timers, 40 paid part-timers, and 9 volunteers – staffed the centers. The center with the smallest staff numbers had two staff members. The most heavily staffed center deployed 22 individuals. Additional staffing was one of the most important needs for a large majority of nine centers. As a result of center outreach efforts, paid staff members increased at six centers. Grant Program funds contributed to increased staffing at seven centers. Center diversity initiatives increased staff diversity at four centers but was unchanged at eight. To stabilize their staffing numbers, ten centers hoped to increase basic salaries, and seven centers planned to increase salary benefits and restructure responsibilities or hours. For example, MMS’s restructuring plans were put into effect during FY 2020. The center offered three of its senior volunteers paid positions as court liaisons whose duties would involve training assistance, supervision, multiple court coverage, etc. MMS anticipated that these position changes would promote greater job reliability and increased commitment from its former volunteers.

##### **2. Funded centers’ mediators and volunteers:**

Out of 381 volunteers available to mediate at the funded centers, 277 actively mediated during the fiscal year. A total of ten board members and 26 staffers also volunteered to mediate,

and 28 staff members provided unpaid administrative or other services. Centers' outreach activities led to increases in the number of volunteer mediator numbers at eight centers and volunteer staff at four centers. An increase in active volunteer mediators at four centers was attributed to Grant Program grants.

## **B. FINANCIAL IMPACT OF GRANT PROGRAM GRANTS ON CENTER VIABILITY:**

Grant Program grants were critical to the continued economic viability of centers. One center observed that "the CMC grant still remains the most important resource for ensuring ongoing Center stability and viability." Another center explained that its "ability to provide community mediation, training, restorative practices, facilitation, conflict coaching and other services depends on MOPC funding – without it, our internal and external capacities would be greatly reduced, and we would be hard-pressed to survive." The \$848,000 in program grants awarded to the twelve centers amounted to one-third or 33% of center's collective income of \$2,584,602. Centers' average annual cash income was \$215,834, and their actual incomes ranged from a low of \$111,190 to a high of \$383,083. The average Grant Program grant was for \$70,667 and individual grants varied from \$46,190 to \$100,160. According to centers, grant monies helped to increase the sustainability of most funded centers (66% or eight centers) and to maintain (i.e., leave unchanged) the sustainability of the remaining four centers. As a whole, none of centers' other revenue sources provided them with as much income as the Grant Program. The Trial Court, the second largest contributor to center income, provided \$459,266 (amounting to 18% of centers' collective income) for dispute resolution services at court, and the third largest contributor, the Attorney General's Office, dispensed \$443,000 (a 17% share of centers' income) for centers' consumer mediation services in the Face-to-Face program.

## **C. CENTER PERFORMANCE IN FY 2020 UNDER THE GRANT PROGRAM:**

The effect of Program grants on various center operating conditions was largely positive. Staff numbers and staff hours each increased at seven centers and remained stable (unchanged) at another four and five centers, respectively. Furthermore, staff turnover decreased at four centers and was unchanged at five. One center attributed its staffing stability to their Program grant: "In FY 20 we did not have staff turnover, we were sustained by the CMC funding, and so we preserved our staff and decreased the amount of turnover." Moreover, four centers experienced an increase in their active volunteer mediators while the number of volunteer mediators at six centers stayed constant (no change). Indeed, the absence of growth in one center's volunteer mediator numbers was blamed on the pandemic: "The lack of increase in mediations and volunteer mediators is due to the COVID-19 pandemic." On the other hand, a negative impact from Grant Program grants on the size of the workforce was reported by one or two centers. Staffing and volunteer mediators each decreased at different centers, and staff turnover was higher at two centers. In one instance, the center credited its increased staff turnover and fewer active volunteers to the decrease in its FY 2020 Program grant – a claim that may attest to the importance of Grant Program funding for centers.

With their labor force, centers were able to provide a full array of conflict resolution services to disputants in FY 2020 even though access to cases was truncated and center case activities were reduced by the pandemic during the latter part of the year compared to previous years (see Table 3). During the fiscal year, 2,824 new referred cases were opened, 29% and 30% fewer than those in FY 2019 and FY 2018, respectively. Similarly, FY 2020 intake and mediation numbers were lower than in the past. Even so, nearly 84% of this fiscal year's 2,758 intakes were mediated. These mediated cases included 139 cases that were mediated remotely during the final third of the fiscal year. A large proportion of nearly 84% of the year's intakes led to mediation, which, in turn, resulted in a 73.7% agreement rate (see Table 3). By the end of the year, 2,758 cases were closed.

**Table 3. Center performance in FY 2018 to FY 2020.**

Center activities	FY 2018	FY 2019	FY 2020
New cases opened	4,020	3,961	2,824
Intakes performed	4,013	3,865	2,758
Mediations conducted	3,423	3,334	2,320
Agreements reached	2,521 (74% agreement rate)	2,423 (72.7% agreement rate)	1,709 (73.7% agreement rate)

#### **D. ACTIONS TAKEN BY FUNDED CENTERS UNDER THE GRANT PROGRAM TO BENEFIT PARTIES AND THE COMMUNITY:**

Centers' involvement with the Grant Program not only affected their financial situation but also influenced their actions so as to comply with community mediation standards under the Twelve-Point Model. At their core, the community mediation standards contained in the Twelve-Point model offered guidance on the ways in which centers could optimize the benefits conferred by their services. In FY 2020, centers that participated in the Grant Program continued their practice of meeting parties' and the community's need for social harmony under the Twelve-Point Model.

##### **1. Striving to attend to a variety of dispute types with an array of services for different population groups:**

###### **a. Variety of dispute types:**

In FY 2020, centers offered a range of services to deal with the various types of

disputes that occupied members of the community. Centers assisted parties irrespective of the level of conflict involved. An overwhelming majority of 78% of 2,758 cases involved intermediate conflict. High and low conflict levels accompanied around 10% or so of cases: 10% were high conflict and 11% were low conflict. Collectively, centers provided assistance to parties for dispute types in nine of eleven major dispute categories, i.e., business, family, government, housing, interpersonal, neighborhood, school, workplace, and juvenile/youth (non-school). Disputes in the culture and discrimination categories did not come to the attention of centers during the 2020 fiscal year. As in previous years, the largest number of cases belonged to four categories: business, housing, family, and school, with the largest number of disputes in the business category (see Table 4). The proportion of cases in each of the four categories was roughly constant over the last three years, only changing by five or fewer percentage points from one year to the next.

**Table 4. Percentage of closed cases in the largest dispute categories by fiscal year.**

<b>Dispute categories</b>	<b>FY 2018 (n=4043)</b>	<b>FY 2019 (n=3895)</b>	<b>FY 2020 (n=2745)</b>
<b>Business</b>	60%	61%	55%
<b>Housing</b>	16%	11%	8%
<b>Family</b>	10%	10%	15%
<b>School</b>	8%	9%	11%

Consideration of sub-categories of dispute types provides a more detailed view of the range of dispute types addressed by centers. In the business dispute category, the five largest sub-categories of referred disputes handled by centers were landlord-tenant, business/service/trade, auto sale/lease, home improvement, and debt collection. Most of the center-involved disputes in the family dispute category were divorce-related, followed by custody, paternity, and separation disputes. Eviction/forced entry and landlord-tenant matters were the most common dispute types tackled by centers in the housing category. The school dispute types that came to centers' attention concerned student-on-student conflict, mostly over name-calling/teasing, fighting, friendship, misunderstandings, threats, and harassment.

For the most part, funded centers experienced growth in the types of dispute they handled during FY 2020. Two-thirds (66% or eight) of the centers reported an increase in the types of disputes mediated in FY 2020 compared to the previous year. For example, after CDSC staff and mediators were oriented to the on-site process at the Juvenile Court, the center received ten case referrals from the Cambridge Juvenile Court and conducted six mediations that led to six agreements. Moreover, both CDSC and FSCM prepared their mediators to mediate permanency cases referred by the Juvenile Court. The remaining third (33% or four centers) mediated the same number of dispute types in FY 2020 as the year before.

Grant Program grants were reportedly instrumental to center expansion of the dispute types they addressed. Program grant money enabled seven centers to increase the types of disputes for which services were provided. The number of dispute types were unchanged, however, at five centers. By the same token, the types of disputes addressed by centers neither decreased nor were they negatively impacted by the Grant Program grants over the fiscal year.

**b. Assisting with a variety of dispute resolution services for different population groups:**

The bulk of centers' conflict resolution services consisted of mediation. Yet, the services provided by centers to help parties sort out their disputes were not confined to mediation. One center, for instance, declared that it was "moving beyond mediation to conflict resolution training for mediators." Alternative dispute resolution methods such as restorative practices, facilitation, conflict coaching, reentry mediation, and remote mediation were put to use by centers depending on which approach best met the needs of the parties involved. Thus, by the end of FY 2020, 25 cases had been referred to various centers for conflict coaching, and 15 full agreements were reached. Restorative practices were employed in eight cases, and three full agreements were produced. The five cases that were referred for facilitation yielded two full agreements. Self-referrals of cases to reentry mediation were made by 61 inmates, and two agreements were reached. Finally, 56 cases were mediated remotely, and 49 agreements were achieved.

**i. Conflict coaching:**

Nine centers participated in the conflict coaching training offered by MOPC in 2019. In addition, MVMP held a four-day virtual training in conflict coaching, based upon its CLAMSHELL Conflict Coaching model, which was attended by Cape Mediation staff and volunteers. During FY 2020, conflict coaching programs were in operation at two centers. Eight centers expressed interest in developing such a program sometime in the future or when their resources permitted. Another two centers were engaged in setting up a coaching program. One of the two, BCRHA, was motivated to develop a conflict coaching program when it realized that coaching was particularly useful in school cases where mediation was accepted by one disputant and rejected by the other disputant. Starting in December 2019, BCRHA proceeded to conduct intakes that sought such information for all referrals. In October 2019, conflict coaching was added to the list of BCRHA services posted on the center's website along with a fillable form to request coaching services. Subsequently, five such requests were received by BCRHA. In order to prepare BCRHA personnel to engage in conflict coaching, a conflict coaching session and a conflict coaching workshop for staff and volunteer mediators were held.

**ii. Reaching out to youth through restorative practices and other methods:**

Restorative practices were largely utilized by centers to serve the youth population. Besides providing mediation services to students, BCRHA conducted four restorative circles at Pittsfield schools; NSCMC provided restorative practices programming to a local YMCA; and TMTC provided workshops and trainings in school-based restorative practices. TMTC also

conducted an assessment mapping of restorative practices at district schools that set out the needs and assets of the school community.

Other methods of acquainting youth with conflict resolution were employed by centers. Two centers used educational means to familiarize young children with conflict management. MWMS adapted and held an after-school training program in conflict resolution for second-, third-, and fourth-graders; and GBCDR supplied materials and training to help a children's learning center introduce conflict resolution skills to children. Adolescents learned about managing their own conflicts or helping their peers manage conflict from four centers. Thus, MCC maintained peer mediation programs and offered instruction on conflict resolution and anger management at local middle and high schools; MSI held workshops on conflict resolution and de-escalation skills for middle school students and for youths at a Boys & Girls Club; CDSC lay the groundwork for Girl Scouts to earn their badge in Finding Common Ground through conflict resolution training; and MVMP worked with students to create a youth mediation training video. And two centers began to work on developing youth-oriented conflict management programs. Cape Mediation proceeded to investigate the availability of resources for establishing a peer mediation program; and FSCM networked with influential people to gain support for the future launch of a high school program involving restorative circles.

### **iii. Reaching out to the prison population through reentry mediation services:**

Center services consisting of a variant form of mediation were first extended to members of the Massachusetts prison population in 2018. The six centers participating in the Reentry Mediation Program provided reentry mediation – specifically, Inclusive Listening – to eligible inmates nearing release from prison. In reentry mediation sessions, the inmate and his/her/their chosen mediating partner were guided by the mediator by way of Inclusive Listening to “heal past wounds and jointly plan for the future” and prepare for future challenges, thereby addressing the inmate’s need for a law-abiding life.<sup>25</sup> The 2018 MOPC-sponsored training in Inclusive Listening was supplemented by an online presentation on reentry mediation offered by MMS and MWMS and by an additional reentry mediation training in December 2019, hosted by MWMS in partnership with six centers and MOPC. During FY 2020, self-referrals for reentry mediation were received from 61 inmates, three cases were mediated, and two agreements were reached.

### **iv. Reaching out to the general population under pandemic constraints through remote mediation:**

Pandemic-imposed constraints on personal interactions and the closure of the courts and other institutions in March 2020 presented centers with the immediate challenge of reinvigorating the public’s interest in using mediation and other dispute resolution services. As MVMP put it, “COVID 19 affected everything.” Centers answered the challenge by offering remote services.

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<sup>25</sup> Charkoudian, L. & Flower, S.M. (2010, Winter). Prisoner re-entry mediation: Unlocking the potential of relationships in tough economic times, *Dispute Resolution Magazine*, 14-26, 15. Retrieved October 13, 2020, from [https://mdmediation.org/wp-content/uploads/2019/09/Prisoner\\_Re-Entry\\_Mediation\\_-\\_DR\\_Mag\\_2010.pdf](https://mdmediation.org/wp-content/uploads/2019/09/Prisoner_Re-Entry_Mediation_-_DR_Mag_2010.pdf)



Conducting mediations remotely required extensive preparation and additional expenditures from centers. The prospect of providing remote services brought one center's "need [for] better and increased technology including internet, hardware, software and training" to the fore. As another center, CDSC, explained, "due to COVID we were faced/forced with adapting and re-inventing our services, both mediation and training, to be virtual." Centers proceeded to ramp up their remote service capacity by acquiring mastery over the technology through relevant mediator training (eleven centers), consultations with more experienced organizations (ten centers), and cooperation with other community mediation centers (ten centers). For instance, centers exchanged information about providing online services in group calls. MSI held a virtual workshop on remote mediation that was attended by Cape Mediation, BCRHA, FSCM, among other centers. MWMS created an instructional video on Zoom mediation for use by centers. MSI offered help with using Docusign and Zoom. NSCMC was a resource for CDSC on setting up Zoom mediations. Notably, mediators sharpened their remote mediation skills through on-the-job learning. Thus, in order to compensate for the shortcomings of remote Zoom mediation compared to in-person mediation, a TMTC mediator made sure to "refer[] to the parties by name to ensure they both felt heard and provided feedback [that] kept them both engaged," and a mediator from MWMS found "it was important to actively express body language while the parties were talking [so] that [they] inferred I was hearing them and then follow up with paraphrasing what was said."

In addition, nearly all (i.e., 11) centers undertook to modify documentation procedures to accommodate the limitations of the remote service platform. And so, MMS found itself "developing procedures for distributing and executing remote agreements to participate and final agreements." TMTC tackled the "integration of signatures on needed forms." Centers also shared advice about responding to documentation changes imposed by some courts in response to the pandemic. One center reported that certain courts were requiring parties to show up in person to finalize their mediation agreements instead of accepting mailed-in agreement forms. Centers advised informing these courts about other courts' practice of allowing substitutes for the finalization requirement, such as verifying agreements through telephone contact with parties. Center arrangements to mediate remotely focused on party as well as center preparedness. NSCMC needed to provide "zoom prep with parties and mediators;" MVMP faced "figuring out the technology and getting our clients on to the technology." Overall, ten centers revised the information about the mediation process that they provided to remotely mediating parties.

The end result of the centers' preliminary work was that remote mediation services were offered by all twelve funded centers. Like the other centers, MWMS, for example, gained the "ability to continue providing services during [the] pandemic." The capacity to deliver remote mediation services did not, on its own, guarantee their use. MSI found that, "... as a center, we were able to move online immediately because we had already used Zoom for training and limited mediations, it was difficult to get the courts and youth partners to move in that direction with us. Progress has been slow in that regard." Moreover, BCRHA's experience was that "... parties exhibited an unwillingness to participate due to court closures."

To promote utilization of these remote mediation services, centers publicized their availability. Centers reached out to courts to inform them about the availability of virtual services. In response, courts began to use center services beginning in May 2020: The Salem District Court referred ten cases to NSCMC; CDSC received one court referral; MMS heard from the four courts served by the center; and FSCM and TMTC both received Probate Court referrals. The District Court contributed the largest share of referred cases during the fourth quarter. All centers also let parties and local organizations know about the opportunity for remote mediation. Furthermore, most centers informed community members (eleven centers), government agencies (nine centers), other mediation providers (eight centers) that remote mediation was on offer. Almost all (11) centers relied on word of mouth to publicize their virtual services. Electronic venues such as center websites and social media platforms were each employed by ten centers to spread the word about remote mediation. Traditional media like newspapers, press releases, and radio/television programs were each used by two centers. Other forms of communication included emails, telephone calls, and paper advertisements posted at local restaurants and churches. Finally, trial and error proved useful to six centers. Ultimately, from mid-March until the end of the fiscal year, 128 cases were referred to centers for remote mediation, 56 cases were mediated remotely, 139 mediation sessions were conducted, and 49 agreements were reached.

Both parties and the courts were the beneficiaries of centers' remote mediation services. GBCDR valued "being able to meet parties' needs"; and NSCMC celebrated "continuing to serve our courts, perfecting a process that we can continue to use in the future, being able to offer training remotely to reach a variety of participants."

## **2. Addressing obstacles to mediation access presented by time, space, money and access to technology:**

Time, space, and money were key determinants of the public's access to center services. In their role as community mediation centers, the funded centers were committed to providing affordable, even free, services. During FY 2020, 93% of 2,758 cases were served free of charge. Parties in 4% of the cases were assessed sliding scale fees, and parties in a paltry 0.01% of cases incurred full fees. Cost, then, was not an obstacle to mediation for nearly all parties.

Although the collective availability of 107 locations for centers' mediation sessions furnished some degree of scheduling flexibility, court premises were the most frequently used sites by centers, and, consequently, court hours tended to prescribe the timing of the sessions. To the extent that remote mediation provided greater flexibility in scheduling sessions with respect to time and place, the upshot was greater access to dispute resolution services for a number of parties. MSI noted that it could "schedule [mediations] at any time and parties are able to join from anywhere." TMTC observed that the option of virtual mediation "permits parties with internet access to participate remotely, cuts down on transportation costs/obstacles."

Apart from greater convenience, the scheduling flexibility resulting from remote technology had ancillary benefits for mediators and parties. At MSI, mediators were more

willing to work after hours because of the greater reliability of party attendance at a virtual session: "...mediators are more willing to mediate at pre-scheduled times, even on weekends and they know that 90% of the time the parties will be there as opposed to signing up for court when we might have 10 potential cases that may result in 0 mediations because people decide not to opt in." Moreover, a volunteer mediator at MSI found that her experience in remotely mediating a small claims case indicated that the issue of left-behind documents, which was often a problem for mediations at court sites, would probably not arise at remote mediations in which parties participate from their respective homes.<sup>26</sup>

Conversely, remote mediation adversely affected access to mediation for parties who lacked access to or were unfamiliar with the relevant technology. At BCRHA, "the biggest challenges included a lack of access to video conferencing for participants and/or difficulty in navigating the platform." MSI found that some parties lacked access to telephone as well as internet mediation: "We have a few parties that didn't have email so had to work around that. Also parties that have to call in as opposed to being on Zoom video. The most recent that occurred in FY21 was a party that only had a landline and couldn't call a non-local number therefore couldn't even join zoom by phone." Parties' inexperience with the technology posed problems at two centers: MVMP found that "figuring out the technology and getting our clients on to the technology" was challenging, and GBCDR noted how "parties unfamiliar with Zoom login procedure created difficulties starting the mediation on time."

Despite the challenges, 56 cases were mediated remotely, and an 88% agreement rate was produced.

### **3. Maintaining quality of mediation services:**

Centers accepted responsibility for meeting community needs by strengthening the quality of their services.

#### **a. Mediator professional development:**

Centers primarily focused on mediators' professional development to preserve the quality of their services. Over FY 2020, professional development among mediators increased at ten centers since the previous year and decreased at two. Grant Program funds contributed towards the growth in mediators' development at nine centers and towards the status quo at three centers. All twelve centers provided advanced mediation training for their mediators, and eleven centers offered continuing education. For example, GBCDR added two hours of "intensive skills-based training," including role plays, to mediators' weekly debriefings. TMTC held an average of three post-court session coffee breaks per quarter with one to six mediators to discuss mediation approaches, skills, and best practices. Specific topics included nonviolent communication techniques, confidentiality issues, and working with attorneys and interpreters, among others. The coffee breaks had to be discontinued when the pandemic arrived. Cape Mediation's FY 2020

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<sup>26</sup> Based on May 2020 interview.

continuing education program originally involved four workshops on remote telephonic mediation, diversity, implicit bias, and strengthening questioning skills in an in-person format. Because of the pandemic, the center translated the workshops into an online format, found speakers to participate virtually, and shortened the duration of the workshops from 2.5 hours to one hour. MWMS held four virtual continuing education events after the pandemic shutdown that involved the discussion of an article, an ombuds workshop, a presentation on mediation and popular culture, and a workshop on listening during a pandemic. MWMS heard that these mediator events helped mediators feel connected despite the social dislocation arising from the pandemic.

**b. Actions taken by center to improve service quality:**

Adjustments to administrative tasks associated with providing quality mediation services were tackled by several centers. Changes were made to mediator program administration (by six centers), to the supervision of mediators (by five centers), to record-keeping (by four centers), to evaluation practices (by three centers), to performance-based mediator assessment (by two centers), and to mediator recruitment (by three centers). The pandemic impelled some of these changes. At BCRHA, bi-annual reviews of mediator performance became infeasible due to the absence of mediation activity during the last quarter of the fiscal year and were replaced in part by mediator self-reports and evaluations of mediators' acquisition of Zoom skills. MMS's effort at mediator recruitment was derailed by the pandemic when the progression from mediator trainee to volunteer mediator by way of supervised/mentored court placements was disrupted by the pandemic-related court closures. Court closures also stalled FSCM's recruitment of new mediators because the court orientation stage of training had to be discontinued.

**c. Centers' mediator recruitment and retention efforts:**

Volunteers, particularly volunteer mediators, were vital to the functioning of funded centers, and recruiting and retaining their volunteers was a particular concern for centers. As MSI found, the time commitment involved in being a volunteer mediator hindered recruitment. Nonetheless, the number of volunteer mediators increased at eight centers because of centers' outreach activities, particularly training, and increased at four centers as a result of Grant Program funding. Thus, before the onset of the pandemic, CDSC held its fall 2019 mediation training, provided two partial scholarships to trainees, and added two more mediators to the center's roster.

In Massachusetts, only 66.1% of volunteers at nonprofits continued to volunteer after one year.<sup>27</sup> BCRHA introduced a book club and appreciation lunches for volunteers. MWMS established bimonthly Lunch & Learns to promote mediator community and learning, and its

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<sup>27</sup> This figure is based on volunteer recruitment numbers from 2005 to 2006. Corporation for National & Community Service. (2007). *Issue brief: Volunteer retention*. Retrieved October 16, 2020, from [https://www.nationalservice.gov/pdf/VIA/VIA\\_brief\\_retention.pdf](https://www.nationalservice.gov/pdf/VIA/VIA_brief_retention.pdf). Citing the report, *Volunteering in America: 2007 state trends and rankings in civic life*.

mediator book clubs met twice a month to discuss books relevant to alternative dispute resolution. MCC's planned in-person celebration – involving at least 50 individuals, including stakeholders, community members, and collaborating organizations – was canceled and instead gift items, such as certificates and travel mugs, were delivered to mediators, conciliators, and volunteers in recognition of their contribution to the center.

#### **4. Centers' efforts to diversify the mediator pool:**

The importance that centers placed on achieving diversity among the mediators on their rosters derived in part from the belief that diversity would reinforce parties' confidence in mediation.<sup>28</sup> Research on the effects of mediators' gender and racial/ethnic group on mediating parties supported this belief.<sup>29</sup> The research indicated that the correspondence between the mediator(s) and parties with respect to gender and racial/ethnic group affected specific features of parties' mediation experience. The presence or absence of a gender match between mediators and parties made a difference to parties' perception of the effectiveness of communication and non-judgmental listening by the mediator. Racial/ethnic group similarity or dissimilarity between mediator(s) and parties, however, affected not only party views about the mediator' non-judgmental listening, but also parties' attitudes about conflict management as well as their sense of control over the conflict.

Centers' diversity efforts led to an increase in mediator diversity at six centers and maintained the status quo at the other six centers. Thus, despite strictures on face-face meetings, MCC's virtual and telephone outreach led to the recruitment of three volunteers, which increased the number of males, younger individuals, and bilingual speakers in the center's mediator roster. Two of the new mediators were male, one was a Russian/English speaker, and another was under 40. CDSC learned about ways to advance diversity by conferring with knowledgeable people of color – viz., an MOPC manager and a Boston mediator/trainer – about strategies for increasing diversity, participating in a summit about the topic that was held by the professional community mediation organization, NAFCM, and investigating a possible collaboration with the community-based organization, Justice At Work. MMS personnel were among the participants in a discussion about diversity led by MOPC. FSCM's diversification approach, though, met with short-lived success: a Spanish-speaking mediator was sponsored by the center to engage in divorce mediation training but left to accept a full-time job.

Demographic data recorded on MADtrac concerning the gender and racial/ethnic group of center mediators practicing during FY 2020 were incomplete. It is unknown whether the shortcomings arose from faulty MADtrac use or from mediator reticence. Nevertheless, out of

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<sup>28</sup> Mediator diversity may promote parties' sense of connection to mediators and their perception of the responsiveness of the mediation process. See 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, 24.

<sup>29</sup> *Ibid.*

391 mediators, 28% (or 110) failed to identify their gender according to a male-female dichotomy. Nevertheless, based on data for 281 mediators, two-thirds or 66% were female and one-third or 34% were male. As for mediators' racial/ethnic group, somewhat more than half or 56% of the 391 mediators (i.e., 220) self-identified their race/ethnic group. The proportion of mediators who volunteered information about their racial/ethnic identification/descent varied by center, from one center that reported no demographic information about its mediators to another center that supplied demographic data about all its mediators. Based on the available information about 220 mediators, 72% of mediators identified as White, 11% as Hispanic/Latino, 8% as African American/Black, 3% as Asian, and 5% as multi or other – proportions that were roughly comparable to the share of the four major racial/ethnic groups in the state's population (see Table 5).

Table 5. FY 2020 racial/ethnic demographics of center mediators and state population.

<b>Racial-ethnic category</b>	<b>American Indian / Alaska Native</b>	<b>Asian</b>	<b>African American / Black</b>	<b>Hawaiian / Pacific Islander</b>	<b>Hispanic / Latino</b>	<b>Multi or other</b>	<b>White</b>
<b>Center mediators</b> (n: 220)	0 (0%)	7 (3%)	18 (8%)	0 (0%)	25 (11%)	12 (5%)	158 (72%)
<b>MA population</b>	0.5%	7%	9.0%	0.1%	12.4%	2.6%	80.6%

## 5. Funded centers' outreach activities:

General recognition of the availability of community mediation services was an important factor in the utilization of center services. Funded centers therefore engaged in an assortment of activities (besides dispute resolution) to raise public awareness of their services, including activities in which organizations and community members were service users – e.g., trainings and consultations, as well as activities in which community members were information recipients – e.g., media participation and presentations.

### a. Using educational measures to reach out to the community:

#### i. Trainings:

All centers offered trainings in dispute resolution and conflict management as a means of reaching out to the community. Cape Cod, for one, held a basic mediation training for community members in October 2019, two conciliation orientation trainings, and a Building Bridges Not Walls training for local realtors (also scheduled for local church members). All together, the funded centers' 32 basic mediation trainings not only taught 288 individuals about conflict resolution but were also a source of mediator recruits. Thus, BCRHA held three training on Zoom during the final quarter of FY 2020. MWMS set up a training scholarship that would reduce basic training fees from \$675 to \$50. Out of the five individuals who applied, two were awarded scholarships. MWMS's mediator pool increased by two new mediators. In contrast,

BCRHA found that the time investment required for mediator training was an obstacle for the participation of individuals who worked as Community Navigators at Building Bridges, a Pittsfield Working Cities Initiative to address poverty and promote grassroots engagement in the community.

Additionally, centers offered trainings in advanced and specialized mediation. The 69 advanced mediation trainings attracted 487 participants, and 142 specialized mediation trainings involved 1,635 trainees. For example, MWMS continued its practice of providing a scholarship for its divorce mediation training. This fiscal year, two mediators experienced in family mediation joined MWMS's divorce mediation program.

Twenty-one peer mediation trainings for 293 students were also provided by centers. Under MCC's auspices, 27 students were trained to be peer mediators for all four grades of a high school.

All in all, the funded centers trained 2,703 individuals at 264 trainings.

**ii. Workshops and other educational endeavors:**

Workshops were also conducted by every center. Thus, TMTC ran a conflict resolution skills workshop for farm personnel under CCISA (Communities Involved in Sustaining Agriculture) auspices. CDSC was instrumental in providing 15 conflict skills workshops and six public education sessions for community-based organizations before its outreach efforts were stalled by the coronavirus pandemic. MVMP held three public workshops under MV Chamber of Commerce auspices on workplace conflicts, toxic workplaces, and teambuilding. Moreover, two ten-session discussion meetings concerning conflict management in the workplace were conducted by MVMP for 21 managers and supervisors. Because of the pandemic, though, MVMP's spring public workshops were cancelled and the workplace discussion meetings ended prematurely. Weekly in-person workshops in conflict resolution and anger management were held by MCC for ninth-grade female students until replaced by virtual versions of the program from March through early June, which drew no participants. MCC also partnered with the Salvation Army to provide Bridging the Gap workshops - a juvenile court diversion program – in the fall of 2019. Insufficient funding led to the cancellation of the virtual form of the program that was planned by MCC for the spring.

By year's end, perhaps as many as 3,707 people took part in 107 community education activities while another 21,314 were involved in 522 outreach events or activities.

**b. Media-based outreach:**

All centers conducted outreach through social media and websites. And so, MSI established its "coffee news" to publicize the center's services at coffee shops, in church bulletins, and on local community television stations. MSI received inquiries as a result of its coffee news outreach. Additional material that was posted by MSI on social media included videos, newsletter links, event notices, and so on. The center also acquired an Instagram account in FY 2020. MVMP, for another, set out to improve its website in order to facilitate public access to information about itself. Difficulties with updating the website by board committee were

remedied when MVMP turned to professionals for assistance. Following the website makeover, half the inquiries received by the center were web-based.

Traditional forms of media, however, were not ignored as an outreach resource. GBCDR participated in a television production about community mediation in the Greater Brockton area, which became available on YouTube. The show, whose audience size was unknown, generated a community referral. Newsletters were published by eight centers. Most recently, MSI began producing a monthly newsletter in January. MWMS distributed three newsletters that contained case studies along with other information to mediators.

**c. Traditional forms of outreach - presentations & informational materials:**

In general, 96,862 informational materials were produced. Literature was distributed by ten centers and received by 68,083 recipients. GBCDR, for example, used different vehicles to disseminate written information. The center set up a table for its informational materials at the Bridgewater Fall Festival, which were acquired by about 200 people. Meanwhile, GBCDR's mailing to seniors about meetings concerning conflict resolution, consumer protection, and scams met with no response probably because the meetings were to be in-person. GBCDR did not, however, limit its promotional output to writings: the center provided refrigerator magnets containing relevant information about its services to a neighborhood watch group.

Whether the events were in-person or virtual, six centers attended conferences, and 11 centers made presentations about their services. MSI, for instance, gave a presentation at a library. TMTC, for another, partnered with MOPC and made presentations at two agricultural mediation workshops. FSCM, though, took advantage of an audio-visual platform, Zoom, to deliver a presentation remotely at the Worcester Housing Authority, which provided legal services to disputants.

**d. Strengthening centers' relationships with other organizations:**

Funded centers reached out to a variety of organizations in their campaign to raise awareness of their contributions to the community. Thus, NSCMC connected with Essex County legislators by holding a legislative breakfast in mid-November which was attended by ten legislators and aides along with fifteen center personnel and which featured information about center initiatives and plans. MSI staff joined the Fitchburg Police Department at two roundtable meetings along with other community organizations.

**i. Relationships with referring organizations:**

The centers maintained relationships with 82 divisions across all the Departments of the Trial Court and with about 30 other organizations, which provided a total of 2,285 referrals to centers. And so, Cape Cod cultivated its court connections to increase the use of its dispute resolution services by meeting with a court representative, judges, magistrates, ADR liaisons and other personnel from four district court divisions, i.e., Barnstable, Falmouth, Orleans, and Nantucket. TMTC joined with BCRHA to connect with court personnel about serving the Westfield District Court. Because of the different interests and jurisdictions of these assorted



referral sources, centers' services were made available to a diverse population involved in a variety of dispute types.

**ii. Relationships with organizations served by funded centers:**

Approximately 160 organizations received center services 868 times. For instance, TMTC provided four hours of consultation about group dynamics, transitions, and meeting arrangements for a regional public health coalition that was restructuring. The center also had three meetings with a community group that employed restorative practices to advise on organizational structures and public relations. Several other centers established relations with institutions of higher education. In partnership with MWMS, MMS provided mediator training to twelve administrators and staff at the Massachusetts College of Art and Design and two staff members from the Berklee College of Music. MMS also got in touch with Emerson College. The center's plans to leverage these new college relationships, however, were postponed because of the pandemic. NSCMC was drawn in to help with communication issues at the Sociology Department and the Media and Communication Department at Salem University. Intakes with four sociology professors and nine members of the Media and Communication Department were conducted, conflict coaching was provided to the chair of the Sociology Department, and a workshop on effective communication was held for four sociologists. Additional post-April interventions were cancelled on account of the pandemic.

**e. The impact of center outreach:**

Approximately 96,000 community members were given the opportunity to learn about mediation and center services through centers' various FY 2020 outreach activities. These outreach initiatives were largely productive. As a result of their outreach and public education activities, 11 centers noticed growth in the public's awareness of mediation and in requests for services. Ten centers found that the community's appreciation of mediation had increased. Nine centers were utilized more frequently. Training participation increased at eight centers. On the other hand, decreases in training participation, center use, and requests for services were each reported by single centers. At least one center attributed the decline to the pandemic.

Centers themselves also benefited from their outreach activities in certain respects. Outreach led to increases in volunteer mediators at eight centers, in paid mediators at four centers, in volunteer staffers at four centers, and in paid staff members at six centers. Also, owing to their outreach efforts, donations – either in-kind or money – rose at four centers.

**6. Involving the community in center governance:**

In conformity with the community mediation standard guiding center governance, four centers undertook to increase the community's involvement with their boards. MMS, for example, created a seven-member advisory board, composed of three African Americans, four females, and three males, all of whom were interested in engaging with the community served by the center. This advisory board met three times via virtual means, which had the advantage of eliminating members' concerns about travel. So far, a list of outreach goals for MMS was produced by the board. In furtherance of TMTC's plan to establish a governing board, the center

relied on its newly formulated recruitment criteria to select five board members. During the board's first year, the board's mission and operations were formulated. In addition, the board oversaw the center's transition from its TMTC identity to its makeover as CRG (the Collaborative Resolutions Group), to be finalized in July 2020. The TMTC board lost two members in March. Cape Cod sought out recommendations about suitable candidates for its board members by working with the head of the regional Community Action, Inc. and with other local organizations and businesses, including a church and a television station. Five individuals joined the center's board. Recruitment of sixth board member was stymied by the pandemic. At MSI, the center's board added a new member, who was a city councilman as well as a college educator. This individual enabled MSI to increase its local government contacts.

Diversification of boards may promote community involvement with center governance. In FY 2020, progress in diversifying their boards was made by five centers. Otherwise, board diversity remained constant at seven centers.

## **IV. IMPACT OF GRANT PROGRAM GRANTS ON THE COMMUNITY**

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### **A. RECIPIENTS OF CENTER SERVICES:**

The value imparted to the community by the activities of funded centers may be measured by the impact of their services on the parties served. A total of 5,332 parties, including 426 young persons, were served by funded centers during FY 2020.

#### **1. Breadth of center coverage:**

The breadth of funded centers' coverage was statewide. Centers took advantage of the opportunity to receive referrals for cases across Massachusetts by obtaining approval as alternative dispute resolution programs from every Trial Court Department and serve at 71% of court divisions (see Table 6). All the funded centers were approved by the District Court, and most won approval from the Juvenile (eight centers), Probate & Family (nine centers), and Superior (ten centers) Courts.

Table 6: Number of MA Trial Court Departments served by funded community mediation centers in FY 2020.<sup>30</sup>

<b>Court Departments</b>	<b>Total Number of Divisions</b>	<b>Number of Divisions that involve CMC grantees</b>	<b>Number of CMC grantees involved with Divisions</b>
<b>Boston Municipal Court</b>	8	8	2
<b>District Court*</b>	62	38	12
<b>Juvenile Court</b>	11	9	8
<b>Probate &amp; Family Court</b>	14	10	9
<b>Superior Court</b>	14	14	7
<b>Land Court</b>	1	1	1
<b>Housing Court</b>	6	2	2
<b>Total</b>	116	82	n/a

\*Based on center reports.

Accordingly, 79% of the cases that were brought to the attention of centers and received center services were referred by the courts (see Table 7). The rest (21%) were non-court referrals. Notwithstanding the minor (under 4%) increase in the proportion of non-court referrals over the last three years, the relative proportion of court to non-court referrals roughly approximated an 80-20 split (see Table 7).

Table 7. Court- and non-court referred closed cases, FY 2018-FY 2020.

<b>Mediation action</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Closed cases</b>	4,023	3,901	2,758
<b>Court-referred cases</b>	3,381 (84%)	3,203 (82.1%)	2,178 (78.9%)
<b>Non-court-referred cases</b>	642 (16%)	698 (17.9%)	580 (21.0%)

<sup>30</sup> Based on court-approved programs lists for 2019-2021 unless otherwise indicated: see <https://www.mass.gov/lists/approved-alternative-dispute-resolution-programs>

The District Court generated 60% of the centers' court referrals, and the share of Probate & Family Court referrals was a distant second at 11% (see Table 8). Centers received no referrals from the Superior Court while the portion of referrals issued by each of the remaining Departments did not exceed 5%.

Table 8. Quantity of court-referred cases by Court Department.

Court Dept.	BMC	District	Housing	Juvenile	Land	Probate	Superior
Referred cases	143 (5%)	1,662 (60%)	3 (0.1%)	65 (2%)	1 (0.03%)	290 (11%)	0 (0%)

Centers' acceptance of court-referred cases benefited both the courts and disputing parties. The courts' caseload was lightened even as parties received assistance with resolving their conflict.

## 2. Party diversity:

Community mediation standards addressed the issue of diversity in the population served by centers. Centers were instructed to strive to serve a population that was as diverse as the community to which they belonged along a number of dimensions, including their residential location, racial/ethnic identification, and financial circumstances, among others (see Table 2).

### a. Parties' geographical diversity:

In all, 5,332 parties were served by funded centers during FY 2020. Every one of Massachusetts' 14 counties was represented among the parties receiving center services, demonstrating geographic diversity in the population served (see Table 2). However, majorities of the served parties resided in nine counties – Berkshire, Barnstable, Middlesex, Suffolk, Worcester, Plymouth, Dukes, Essex, and Franklin. Besides this geographical diversity, the population served by centers in FY 2020 was also racially/ethnically and financially diverse.

### b. Parties' racial/ethnic diversity:

As a result of their FY 2020 efforts to increase diversification, half the centers reported greater diversity in the population they served, and half found their population's diversity unchanged. Based on party survey responses, 55% of served parties chose to identify their racial/ethnic descent. The racial/ethnic origins of these parties spanned the entire array of the tracked ethnic/racial census categories (see Table 9). Collectively, the diversity among the responding parties augured well for centers' compliance with the community mediation standard to provide mediation to members of the community who reflected the racial and ethnic diversity of the community (see Table 2).

The demographics of the group of responding surveyed parties mirrored that of the state's population in terms of composition and relative size.<sup>31</sup> An overwhelming number of the parties belonged to four groups, with a large majority of 61% of parties identifying themselves as White, and minorities self-identifying as Hispanic/Latino (16%), African American/Black (13%), and Asian (4%). Notably, Whites were underrepresented in the group of responding parties served under the Grant Program compared to the general population.

Table 9. FY 2020 racial/ethnic demographics of served parties and state population.

<b>Racial-ethnic category</b>	<b>American Indian / Alaska Native</b>	<b>Asian</b>	<b>African American / Black</b>	<b>Hawaiian / Pacific Islander</b>	<b>Hispanic / Latino</b>	<b>Multi</b>	<b>White</b>
<b>Grant Program parties</b> (n: 2,921)	16 (0.5%)	143 (4%)	388 (13%)	10 (0.3%)	454 (16%)	74 (3%)	1,768 (61%)
<b>MA population</b>	0.5%	7%	9.0%	0.1%	12.4%	2.6%	80.6%

### c. Parties' financial diversity:

A scant 16% of the population served by funded centers in FY 2020 furnished information about their finances (see Table 10). The available data indicated that the incomes of the responding parties ranged from less than \$10,000 to more than \$65,000. Despite the low response rate, the range of the reported incomes offered some evidence of financial diversity among the entire group of served parties, thereby demonstrating adherence to the community mediation standard to serve members of the community from diverse financial circumstances (see Table 2).

Table 10. Annual income levels of responding parties served under the Grant Program in FY 2020.

<b>Annual income levels</b>	<b>\$0-9,999</b>	<b>\$10,000-19,999</b>	<b>\$20,000-29,999</b>	<b>\$30,000-39,999</b>	<b>\$40,000-49,999</b>	<b>\$50,000-59,999</b>	<b>\$60,000-64,999</b>	<b>\$65,000 or more</b>
<b>Grant Program parties</b> (n: 841)	85 (10%)	118 (14%)	111 (13%)	105 (12%)	133 (16%)	73 (9%)	26 (3%)	187 (22%)

### 3. Party assessment of the mediation process:

<sup>31</sup> State population demographics are available at <https://www.census.gov/quickfacts/MA>

Disputing parties who engaged in mediation gained an opportunity to resolve their disputes collaboratively by working out issues and examining alternatives for reaching a mutually acceptable settlement of their disagreement.<sup>32</sup> Slightly more than half of the 5,332 people served (i.e., 51% or 2,736 parties) submitted an evaluation of the mediation services they used. Over three-fourths of their assessments were favorable. A resounding majority of 90% of respondents were satisfied with their mediation, 89% were willing to recommend mediation to others, and 78% expressed a preference for mediation over other forms of dispute resolution. Even when the mediation was virtual, parties tended to favor the process. Out of the 2,736 respondents, 32 were remote mediation participants. Ninety-four percent of this latter group were satisfied, 78% would recommend remote mediation to others, and 66% preferred remote mediation over alternative methods of dispute resolution.

#### **4. Benefits accruing to mediating parties:**

Mediation outcomes that may accrue to the benefit of participants include resolution of parties' conflict through mutual agreement, reduced conflict, improved communication, enhanced conflict management skills, and preservation of the parties' relationship.<sup>33</sup> In FY 2020, dispute settlement was achieved for a majority of mediating parties while sizable minorities achieved improvement in conflict, conflict management, and party interactions (see Table 11).

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<sup>32</sup> Wilkinson, J. (2001, August). *A study of Virginia and ten states: Final report and recommendations*. Virginia Association for Community Conflict Resolution (VACCR), Institute for Environmental Negotiation, University of Virginia.

<sup>33</sup> "Among mediation's numerous advantages is its ability to constructively address conflicts, respect each party's perspective, empower individuals to take personal responsibility for conflicted relations, establish mutually beneficial dialogue, and reduce violence. Written settlements are often a by-product of these dynamics, but they are not in themselves a sufficient goal of community mediation." Hedeem, T. & Coy, P.G. (2000). Community mediation and the court system: The ties that bind. *Mediation Quarterly*, 17:4, 351-367.

Table 11: Proportion of party reporting about mediation's impact.

<b>Impact statements</b>	<b>Decreased (% of n)</b>	<b>Improved (% of n)</b>	<b>Increased (% of n)</b>	<b>Worsened (% of n)</b>	<b>Stayed same (% of n)</b>	<b>N/A (% of n)</b>
<b>Your feelings of conflict or tension has (n: 2,304)</b>	45%	no response	9%	no responses	33%	13%
<b>Communication between you and the other party has (n: 2,328)</b>	no responses	48%	no responses	5%	37%	10%
<b>Your relationship with the other party has (n: 2,295)</b>	no responses	34%	no responses	6%	48%	13%
<b>Your ability to handle disputes has (n: 2,302)</b>	4%	no responses	43%	no responses	43%	13%
<b>Your opinion of the other party has (n: 2,280)</b>	no responses	32%	no responses	10%	46%	13%

Out of the group of 2,320 cases mediated in FY 2020, disputes were resolved through agreement for an estimated 2,418 parties in 1,709 cases, producing a 73.7% agreement rate (see Table 3). An agreement rate of 87.5% was generated by the sub-group of 56 remotely mediated cases. Both the overall agreement rate and the remote mediation agreement rate were in the upper half of the range of typical mediation agreement rates of 66% to 80%.<sup>34</sup> As for cases involving consumer disputes, the agreements achieved through mediation led to the return of \$2,393,632.68 to consumers.

To test the extent to which other mediation benefits materialized for mediation participants; parties were asked to complete questionnaires that inquired about post-mediation changes in parties' feelings of tension or conflict, ability to handle disputes, and interactions with the other party involving their communication, relationship, and opinion of the other party. Questionnaires were completed by 2,379 parties, just over half (51%) of those mediating in FY 2020.<sup>35</sup> Eighteen parties in this larger group provided feedback about changes arising from their experience with remote mediation.

<sup>34</sup> 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.

<sup>35</sup> Four centers administered the impact questionnaire until the end of the fiscal year. Eight centers did not distribute this questionnaire after March 2020.

Substantial minorities of nearly one-third to just under one-half of respondents were positive about mediation's impact on them. Feelings of conflict or tension, communication, and conflict management skills improved for minorities of respondents in the 40% range: 43% of 2,302 responding parties indicated that their ability to handle disputes increased; feelings of conflict or tension decreased for 45% of 2,304 respondents, and 48% of 2,328 parties found communication had improved. Somewhat smaller minorities of around one-third of parties had a better relationship with the other party (34% of 2,295) and a better opinion about the other party (32% of 2,280).

Comparably sizable minorities of party respondents reported no mediation impact, that mediation left matters unchanged. Feelings of conflict/tension and communication remained the same for 33% and 37% of parties, respectively. The proportions of parties who reported no change in their conflict management skills, party relationships, or opinions of their opponent were in the 40%-49% range.

Few parties – at most 10% – experienced a negative impact from mediation. For another 10%-13% of parties, such impacts did not apply to their situation.

As for the sub-group of 18 remotely mediating respondents, most considered that their mediation experience led to affirmative changes or left matters unchanged. Majorities reported a positive impact on their feelings of conflict or tension (78% of parties), their communication with the other party (67%), and their ability to handle disputes (67%). Party's relationship with and opinion of the other party were unchanged for majorities of 67% and 72% of respondents, respectively. A negative impact was experienced only with respect to feelings of conflict or tension – 11% or two parties found these feelings had increased with remote mediation.

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

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## **VI. CONCLUSION**

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The Grant Program demonstrated its value for Massachusetts communities by supporting the efforts of funded centers to meet communities' dispute resolution needs in accordance with community mediation standards during both the ordinary course of events in FY 2020 and the extraordinary circumstances brought on by the coronavirus pandemic.

## **VII. RECOMMENDATIONS**

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(A)The Community Mediation Center Grant Program demonstrated its on-going value for the community even during the straitened circumstances arising from the coronavirus pandemic and is worthy of continued support from the state and other sources of financial support.



(B) Despite pandemic-related constraints, funded centers have demonstrated their ability to continue to serve communities' dispute resolution needs by using remote technologies. Massachusetts courts would do well to take advantage of centers' virtual services to help them (the courts) deal with the pent-up demand for the resolution of disputes among the state's residents.

(C) The expanded internet presence of Massachusetts community mediation and the Grant Program on a new MOPC-sponsored website and Facebook page was particularly fortuitous since the pandemic has restricted in-person outreach. To maximize the impact of virtual outreach, centers and MOPC should consider how best to use the internet and social media platforms to raise public awareness and utilizations of the Grant Program and center services. Besides email, Facebook, and websites, other platforms such as Twitter, Instagram, Snapchat and Tiktok might be valuable vehicles for outreach. In addition, individuals with experience in creating a thriving social media presence should be consulted about building a larger internet audience for information about community mediation and the Grant Program.

(D) To improve the remote mediation experience for all participants – for mediators as well as parties, MOPC should consider organizing a virtual audio-visual meeting where mediators can share what they've learned about remote mediation with respect to:

(1) the methods that mediators use to compensate for shortcomings in virtual mediations such as the absence of eye contact, limited access to body language, and the like; and

(2) the techniques that mediators use to ease the burden of navigating the technology while mediating.

(E) In order to fully benefit from the knowledge acquired by mediators – including that of volunteer mediators, MOPC and center administrators should consider including mediators in their deliberations so that mediators' field experience could directly inform discussions about matters of interest. By inviting mediator participation in policy and decision-making discussions, MOPC and centers' would also be communicating their appreciation of mediators' contributions to centers and the community mediation enterprise.

(F) MADtrac information about mediators' gender and racial/ethnic origins is currently incomplete. As part of centers' endeavors to achieve mediator diversity, the gender and racial/ethnic demographics of mediators should be fully reported, consistent, of course, with protection for mediators' privacy and voluntariness. Mediators should be consulted about their concerns about sharing their demographic information and about ways to address their concerns. In addition, research about the effect that mediator's racial/ethnic identity and gender have on parties should be shared with mediators.

(G) To forestall any misunderstandings, communications about Grant Program support for programs should mention that the support is in the form of operating grants.