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## **Massachusetts Community Mediation Center Grant Program: Fiscal Year 2021 Report & Evaluation**

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# **Massachusetts Community Mediation Center Grant Program**

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## **Fiscal Year 2021 Report & Evaluation**

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

**December 2021**

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

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## EXECUTIVE SUMMARY

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The state of Massachusetts appropriated \$2,700,000 in Fiscal Year (FY) 2021 for the Community Mediation Center Grant Program (the Grant Program or Program) to support its endeavors to expand utilization of community mediation across the state by means of the award of operational grants to qualified community mediation centers (centers) that delivered free or low-cost dispute resolution services to the public. Eighty-five percent of the funding was awarded to 12 centers that completed a simplified granting process. Grant Program funds constituted almost half or 51% of centers' collective cash income in FY 2021 and were critical to the sustainability of centers and, as a result, to the preservation of statewide access to community mediation. The services offered by the funded centers during FY 2021 were virtual, using remote/online technologies for the most part, due to the persistence of the COVID-19 pandemic and attendant constraints.

The Massachusetts Office of Public Collaboration (MOPC), the state dispute resolution office and Grant Program administrator, brought operational support through both grant management and the management of programming under Grant Program auspices to attract additional funding and address community needs regarding homelessness, recidivism, youth violence, and systemic injustice. Accordingly, 68% of the operational grants awarded to centers consisted of operational program grants to support centers' participation in Grant Program programming for housing mediation, reentry mediation, youth-oriented projects, and initiatives to establish diversity, equity, and inclusion.

The funded centers were community-based grassroots organizations. They delivered their dispute resolution services through a workforce composed of both paid and volunteer workers. Centers operated with more staff in FY 2021 than in FY 2020 and averaged 2.17 full-time staff per center. Mediations, though, were mostly conducted by 176 active volunteer mediators across 12 centers. Centers depended on trainings to recruit additional mediators. In FY 2021, virtual training effectively replaced in-person training in response to pandemic-related concerns. A total of 435 trainings, including training/workshops in conflict resolution for community members, were offered across the 12 centers. An estimated 4,666 people participated in the trainings and workshops overall. Despite the increase in mediation skill trainings and in trainees, there were fewer active volunteer mediators across the 12 centers in FY 2021 than in FY 2020. Measures were taken by centers to retain their current mediators, including celebrating mediator services, and providing educational opportunities. Additionally, quality assurance of mediation services continued to be addressed. The pursuit of consistency and quality of mediation training across all centers will be studied during the coming year.

Regarding the goal of funded centers to increase diversity among their mediators, data regarding 219 mediators revealed that, like the state's population, females, males, Asians, African Americans/Blacks, Hispanics/Latinos, Whites, and multi-racial individuals were represented among the totality of center mediators. However, mediator pools were not racially/ethnically diverse at every center. The data also indicated that most center mediators were female and White. Feedback from under-represented communities provided at listening sessions held by

eight centers indicated that, among other things, language barriers and work demands hindered their participation as volunteer mediators. In light of the challenges confronting volunteer recruitment at several centers as well as the goal to increase diversity, equity, and inclusion among center mediators, the volunteer model for center mediators will be examined next year.

Interest in acquiring mediation assistance for conflict was relatively low among potential parties as the pandemic progressed from FY 2020 into FY 2021. Centers worked to counter this pandemic effect through outreach efforts that relied heavily on remote activities in place of in-person events. Centers' efforts to publicize community mediation as well as their services largely took the form of trainings, educational initiatives, and distribution of written materials. Perhaps as many as 384,628 members of the public were made aware of community mediation and center services through centers' outreach efforts during FY 2021.

Pandemic-related limitations on in-person interactions, whether involving individuals or organizations, hindered access to and utilization of center services. Centers relied on remote technology to increase the use of their services. The option of virtual services allowed centers to avoid a hiatus in the delivery of their services while offering greater convenience and increased access to parties by providing flexibility in scheduling and attending mediation sessions. Obstacles to the effective delivery of their virtual services, such as inexperience in or lack of access to the remote technology, were partially overcome through extensive preparation by centers, e.g., providing training in the use of remote technology to mediators, staff, and even to parties and by adapting mediation to accommodate technological constraints, such as the use of a hosting model of remote mediation. By the end of FY 2021, an estimated total of 1,279 remote mediations/mediation sessions were held by the centers.

Even though centers offered alternative dispute resolution (ADR) coverage in all Massachusetts counties, the longer duration of pandemic constraints in FY 2021 compared to FY 2020 resulted in an overall lower demand for center services in FY 2021 than the year before. Notwithstanding this annual decline, the precipitous drop in services during the fourth quarter of FY 2020 was followed by a revitalization of center services in FY 2021 as shown by the steady upward climb in the demand for and delivery of center services over the year from their low point in FY 2020.

Concerned to address the manifold conflict management needs of their communities, centers endeavored to provide a variety of services for a comprehensive array of disputes. During the 2021 fiscal year, centers received referrals for cases in ten different broad categories of disputes, including business, discrimination, family, government, housing, interpersonal, neighborhood, school, workplace, and juvenile. Although centers relied heavily on mediation to settle disputes, they also offered other discourse-based and non-adversarial methods of resolving issues, including conflict coaching, conciliation, peer mediation, and restorative practices.

The funded centers were all approved ADR providers for the Massachusetts court system. As such, centers maximized the potential for providing their services to people from all over the state. Even so, the limited number of courts that slowly opened and accepted remote ADR services over the year generated fewer referrals to community mediation than in FY 2020 when

courts were fully operational during the first three quarters of that year. Two-thirds of FY 2021 referrals were produced by the courts.

In FY 2021, Grant Program money helped nearly all (i.e., 11) centers to increase the number of people they served as the FY 2021 fiscal year wore on. By year's end, 3,119 parties reportedly received mediation services. Based on a small group of surveyed parties, all the major racial/ethnic groups of the Massachusetts population -- White, Hispanic/Latino, Black, and Asian -- were represented among mediating parties, and people of all income levels -- from \$0-9,999 to more than \$65,000 -- were served by centers. In order to achieve greater party diversity through the increased use of center services by members of underserved communities, centers engaged in listening sessions with community members so as to identify the impediments that prevented the community's utilization of center services. Language barriers, unfamiliarity with mediation, and discomfort with outsider assistance were some of the obstacles mentioned.

Disputing parties were able to settle their disputes in agreements reached by way of center mediations. In FY 2021, the 70% agreement rate achieved through center mediation exceeded the typical agreement rate of 66% for community mediation in general. Despite the widespread use of remote forms of services by centers in FY 2021, there was little appreciable change in the agreement rate produced compared to preceding years when mediations were usually in person. Between FY 2017 and FY 2020, the agreement rates achieved in those years varied from 71% to 74%. For most parties, mediating was a positive experience. Among surveyed parties, large majorities of more than 80% were satisfied with their mediation, were willing to recommend mediation to others, and preferred mediation to alternative services. As for the impact of mediation on the relationship between parties, a substantial majority of the responding parties indicated that the impact of mediation on their relationship was either positive or neutral. And an even larger majority of the parties reported no harm to their relationship with the other party from mediation. Not only did parties benefit from mediating under the Grant Program but Massachusetts as a whole also benefited from the Grant Program by virtue of the estimated \$14 million in cost-savings and leveraged resources calculated as the return on the state's FY 2021 investment of \$2.7 million in the Program.

Recommendations to maximize the Grant Program involved continuing state funding support for center and program operational grants, examining the role of volunteerism at centers, reviewing mediator training standards, responding to community feedback about achieving diversity, and tracking a wider spectrum of centers' services.

# 1 INTRODUCTION

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Through the passage of MGL c.75, §47 in 2013, the Massachusetts state government committed itself to expanding access to community mediation throughout the state by providing for the establishment of the Community Mediation Center Grant Program (the Grant Program or Program) that enabled the delivery of mediation services from community-based organizations, known as community mediation centers (centers). The purpose of the Grant Program was to broaden utilization of community mediation by providing operational support in the form of grants to qualified centers that delivered dispute resolution services for free or at low cost from trained community volunteers (MGL c.75, §47(a)). Thereafter, the Grant Program received state support through annual legislative budget appropriations, which in Fiscal Year (FY) 2021 amounted to \$2,700,000.

## 2 ADMINISTRATION OF THE COMMUNITY MEDIATION CENTER GRANT PROGRAM:

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The state dispute resolution agency, the Massachusetts Office of Public Collaboration (MOPC) at the University of Massachusetts Boston, was given responsibility for administering the Program (MGL c.75, §47(b) & (c)). MOPC's duties, enumerated in the enabling statute, included awarding operational grants to qualified centers in accordance with an application process and university contracting protocols, reporting on Grant Program activities and accomplishments, and instituting an advisory committee for the Program. MOPC was also authorized to advocate for Grant Program support, organize quality assurance of mediator excellence, and provide for Program supervision and evaluation.

### 2.1 FY 2021 GRANT PROGRAM GRANT APPLICATION PROCESS:

A core responsibility of MOPC as Program administrator was to devise an application process to determine whether grant monies would be awarded to centers on the basis of their satisfaction of eligibility standards; their track record and performance levels as measured by the quantity of such activities as intakes, sessions, and mediations; their compliance with application procedures, among other factors (MGL c.75, §47(c) & (d)). MOPC's consultation with centers about grant criteria and procedures was mandatory (MGL c.75, §47(d)).

The performance-based grant application process that was established in conformity with the framework articulated in the Program's enabling statute was suspended for the grant-making in FY 2020 to award FY 2021 grants with university approval, due to the burdens visited upon centers and MOPC by the COVID-19 pandemic and its repercussions, and a simplified grant extension process was implemented. This simplified process was used the following fiscal year and included accepting a center's eligibility as a community mediation center based on its FY 2020 compliance with the community mediation standards articulated in the Twelve-point Model of Community Mediation (see Table 1) and distributing initial grant awards to each center in

amounts that were commensurate with FY 2020 awards and that credited center participation in Grant Program programming, all contingent upon available funding.

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

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

When accepting grant award extensions, centers also had to fulfill procedural requirements such as providing data about their mediation activities, submitting an annual budget, and reporting on

progress made towards achieving four specific, measurable, achievable, relevant, and time-bound goals (aka SMART goals) that were related to community mediation standards. At least two center grantees appreciated this abbreviated version of the grant process: “Grant extensions were welcomed rather than the application process,” observed one, and “really appreciate the really genuine collaboration with MOPC & CMC [community mediation center][,] especially in response to our collective request to continue to streamline reporting and grant making (wherever) possible,” remarked another.

The simplified process was used for FY 2022 grant-making. The normal grant application process will be reinstated for FY 2023.

## **2.2 DISTRIBUTION OF GRANT PROGRAM GRANTS AND AWARDS FOR FY 2021:**

The amount appropriated for the Grant Program in FY 2021 was finally determined in November 2021 to be \$2,700,000. The FY 2021 budget appropriation included an increase of \$1,410,000 -- consisting of \$1,210,000 related to a housing mediation program plus another \$200,000 for a reentry mediation program -- above the \$1,290,000 originally requested.

The budgeting delay until November together with the increase in the appropriated funding for the Grant Program entailed adjustment in the amount of grant money available to the center grantees. Accordingly, center grant contracts were amended to include “bonus awards” for housing and reentry mediation program operations, diversity work, and expanded youth projects.

Furthermore, the past tradition of an 80-20 split in the distribution of Grant Program funds -- 80% allotted for center grants and 20% for MOPC administration expenses -- was replaced by an 85-15 allocation. The rationale behind this departure from tradition was to focus on providing funding that would optimize center efforts to strengthen their staffing infrastructure -- which was critical to the delivery of center services. Accordingly, 85% of the \$2.7 million appropriated was disbursed to centers in the form of operating grants and technical assistance (e.g., training) and 15% to MOPC to cover the administration expenses of the Grant Program.

Grant Program administration entailed managerial responsibilities beyond the distribution of funds through grant-making, such as monitoring, evaluation, and generally working towards greater utilization of community mediation. Program management involved, for example, advocacy for funding support, setting up programming, assisting funded centers in making progress with their SMART goals, tracking center compliance with Program requirements, communicating with centers on a monthly and semi-annual basis about Grant Program initiatives, sponsoring and arranging mediator trainings, and other matters. MOPC’s share of the Grant Program appropriation is projected to increase in FY 2022 -- if state funding is level -- so that MOPC can build up the staffing needed to better sustain the functioning of the programs and projects under the Grant Program.

## **2.3 EXPANDING USE OF COMMUNITY MEDIATION THROUGH BUDGET ADVOCACY:**

The Grant Program’s statutory mission to increase utilization of community mediation would not be realized apart from the continued existence of the Grant Program, which, in turn, requires

funding support. Therefore, MOPC exercised its authority to “advocate for funding and resources for the statewide Program and for community mediation programming. (MGL c.75, §47(b))” by engaging in budget advocacy with the legislature and executive branch for state support. As a result of the concerted advocacy efforts of MOPC and funded centers in FY 2020, the Grant Program was sustained in FY 2021 through a \$2.7 million appropriation that included coverage for community mediation programming such as the housing mediation and reentry mediation programs.

To secure the way forward for the Grant Program in FY 2022, MOPC and centers held a virtual legislative briefing in February 2021 for the largest briefing audience to date, which was attended by legislators and their staff as well as by center and MOPC staff. Besides explaining the request for level funding, centers made presentations that highlighted the programs and projects that operated under Grant Program auspices. The breadth of centers’ youth-oriented projects, the revisions planned for the reentry mediation program, the impact of the housing mediation program on homelessness prevention, and the value contributed by centers to the state’s crisis response were described. By the end of the 2021 fiscal year, but before finalization of the budget process, committees in both the House and Senate approved MOPC’s request for FY 2022 level funding and, for the first time during the Baker administration, the Governor’s budget included a Grant Program line item (for \$1,090,000).<sup>1</sup>

#### **2.4 RESPONDING TO THE NEEDS OF THE GRANT PROGRAM AND THE COMMUNITY:**

MOPC brought operational support into the context of community mediation programming by instituting programs under Grant Program auspices thereby serving two ends. Firstly, connecting operational support to programming raised the potential for acquiring supplementary state funding for the Grant Program. Sponsors are more likely to provide funding when their interests align with program purposes. Consequently, programming rather than operations tends to be a preferred funding objective for most sponsors even though operational support enables programming -- consider how the operational funding from the Grant Program enables community mediation in Massachusetts. MOPC’s establishment of Grant Program programming has attracted financial support from other funders for the Grant Program and arguably may be considered a vehicle for fundraising. Secondly, tackling community needs is a community mediation center standard (see Table 1) as well as a factor in determining a center’s value for Grant Program awards: “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,” and “[t]he commonwealth's share of the operating cost of any center funded under this section shall include ... [an additional award that may include among other considerations] the extent services are being provided to underserved or unserved areas of the commonwealth and the center's contribution to identified community objectives within the geographical regions served” (MGL c.75, §47(c)). Current Grant Program programs address the challenges of

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<sup>1</sup> See amount listed in <https://budget.digital.mass.gov/govbudget/fy22/appropriations/education/university-of-massachusetts/?tab=budget-summary>

homelessness, recidivism, youth violence, and systemic injustice, which face Massachusetts communities.

Consistent with these dual purposes, 68% of the \$2,286,660 in FY 2021 grants awarded to centers (i.e., \$1,554,500) consisted of operational program grant awards to support centers' engagement with Grant Program programs for housing mediation, reentry mediation, youth-oriented projects, and a diversity, equity, and inclusion (DEI) initiative. Centers were no stranger to the concerns addressed in these programs. Centers have a history of assisting with summary process and landlord-tenant disputes and with inter-personal issues, of developing and managing peer mediation programs in schools, and of striving for diversity in the population they serve and among their mediators and staff -- activities relevant to the housing mediation program, the reentry program, the youth program, and the diversity, equity and inclusion initiative, respectively. The award of operational program grants was an investment in centers' staffing infrastructure to reinforce center participation in Grant Program programming.

#### **2.4.1 The Housing Mediation Program (HMP):**

The Grant Program's Housing Mediation Program (HMP) was developed and implemented in FY 2021 as a rapid response to the pandemic-related problems of eviction and homelessness in Massachusetts communities.<sup>2</sup> The emergence of the HMP further illustrates how the state's interest in programming propelled an additional financial commitment to the Grant Program. In September 2020, at the behest of the state agency, the Department of Housing & Community Development (DHCD), MOPC presented a proposal, conditional upon state funding for the Grant Program, for the development of a program to offer housing mediation services, i.e., the Housing Mediation Program (HMP), under the state's Eviction Diversion Initiative (EDI). The purpose of the HMP was to contribute to the state's goal of reducing evictions and decreasing homelessness by helping disputants resolve housing disputes connected to pandemic exigencies. The DHCD and the Executive Office for Administration & Finance approved the proposal and provided \$1.2 million in funding that was subsequently subsumed by the FY 2021 legislative budget appropriation for the Grant Program.

MOPC's experience in program development and management, the community mediation infrastructure represented by funded centers, and centers' experience with housing issues, including summary process and other landlord-tenant disputes, were leveraged to become resources for the new program. The 12 funded centers were recruited to the program, and they in turn reinforced their employee infrastructure as a means to manage their participation in the program. Thus, centers increased salaries, hired more staff, or reorganized existing positions. The urgency of impending evictions and homelessness along with pressure from the state demanded outsized expenditures of time and energy from MOPC and centers. Refresher

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<sup>2</sup> See Palihapitiya, M., Sulewski, D., Eisenkraft, K.O., Ho, J. (2021, November). *Increasing housing stability through state-funded community mediation delivered by the Massachusetts Housing Mediation Program (HMP): Evaluation report*. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston. Retrieved December 22, 2021, from [https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1032&context=mopc\\_pubs](https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1032&context=mopc_pubs)

trainings and orientation sessions in HMP participation for center staff and mediators were initiated in early November. MOPC staff held daily meetings, and MOPC staff and center directors held weekly, and then bi-weekly, meetings to design and fully shape program implementation. Protocols and procedures regarding referrals, case processing, service delivery, program evaluation, and outreach to stimulate utilization were largely finalized by the end of January. Meanwhile, at an October 2020 meeting between centers and MOPC, six centers declared themselves ready to deliver services in three weeks. Accordingly, mediation services were made available under HMP auspices beginning in November 2020. In effect and in response to the urgency, HMP services became available while the program was still under construction.

Centers and MOPC accommodated the complex demands of HMP participation by taking on multifaceted roles. For example, besides providing housing mediation services, BCRHA functioned both as a consultant and trainer for the HMP. The center held two “statewide dispute resolution and skill building trainings” under DHCD auspices. The director of MSI helped out with BCRHA’s training by acting as a roleplay coach. MSI reinforced the housing mediation training by holding several roleplay exercises for center volunteers, including those from other centers, such as FSCM. CRG recruited eight mediators who were trained to provide mediation services under the HMP, instituted managerial procedures to conform to HMP requirements, including reporting case and outreach activities related to the HMP. CRG’s efforts to provide housing mediation services, however, were complicated by court closings, reduced small claims referrals, and the initial hesitancy of EDI agencies to support mediation. Notwithstanding these difficulties, CRG received 44 housing case referrals. MWMS hired a housing mediation coordinator and an interpreter for cases with parties who were Spanish or Portuguese speakers; and provided training in summary process mediation to 18 of the center’s mediators and to 10 mediators from other centers, resulting in 10 MWMS mediators becoming actively involved in summary process mediation. The center directed its outreach to at least ten local agencies and organizations and dedicated a webpage on its website to housing mediation services. As a result of these initiatives, 74 cases were opened and 23 were mediated by MWMS under the HMP.

In addition, centers’ case coordinators at the HMP assumed multiple responsibilities. Interviewed coordinators and mediators indicated that coordinators not only performed a dual role in their HMP work -- viz., fulfilling the administrative tasks that enabled centers’ HMP services and forming working relationships with the EDI network of agencies -- some also assumed a third responsibility -- facilitating parties’ interaction with one another and with other agencies and the court -- which often expedited the mediation or, at times, settled the dispute and eliminated the need for mediation.<sup>3</sup> And so, from the perspective of one mediator, coordinators substantially contributed to mediation:

“They [coordinators] are well-trained and they know about the different programs that could be useful to the landlord or the tenant. They [coordinators] can point them [parties] in that direction and ask them [parties] to do that prior to scheduling the mediation. So, they [parties] come to mediation with all the tools they need and all the support they can

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<sup>3</sup> The frequency of these coordinator activities was neither tracked nor recorded during the 2021 fiscal year.

get from different programs or the financial [assistance] or whatever kind of program—that is just going to make the program work a lot better.”

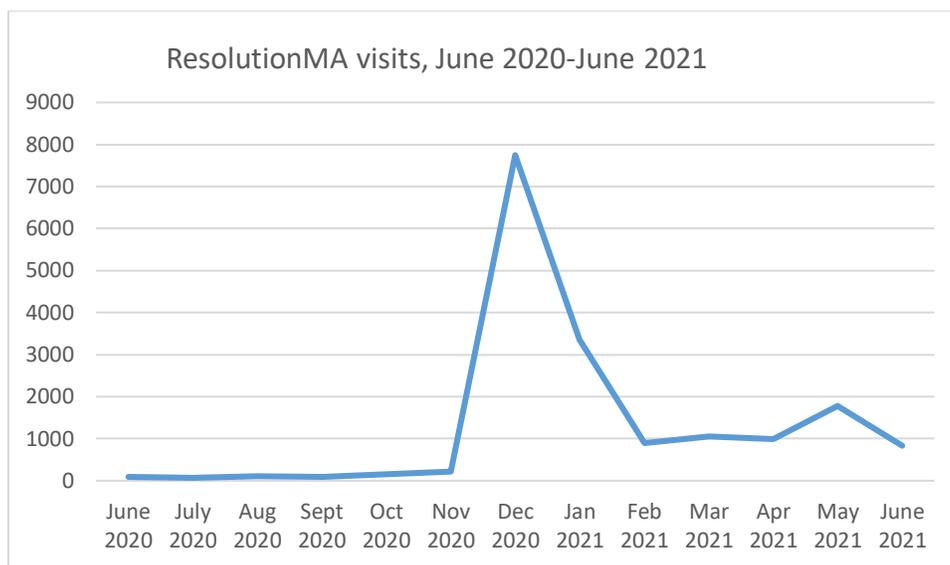
The evolution of the scope of HMP coordinator responsibilities was described by case coordinators at two centers:

“But if I [coordinator] have all the wealth of experience and the information they [parties] need working with all of these multilayer agencies and bureaucracies, why not use my information and knowledge I already have to help this flow down the river a little faster, sort of? That’s just my perspective.”

““I’ve [coordinator] definitely seen my work grow and change over the course. I have started as case coordinator, and it’s definitely expanded more from the role of simply coordinating and scheduling mediations to a lot more resource gathering for parties, a lot more helping parties to find active resources. I do a lot with the RAFT program and helping parties to navigate that process and everything like that.”

For its part, MOPC added outreach to its responsibilities for developing and managing the HMP. MOPC made presentations to community organizations, legal services, landlord associations, and others about the community mediation services for housing issues delivered under the HMP. Following an MOPC presentation, the attending landlord association offered to design and publish, free of charge, a public service announcement about the HMP in their mass mailings. Furthermore, MOPC worked with DHCD and a marketing consultant to develop messaging about mediation that would prevent confusion arising from the complexity of the concept of mediation. Information about the HMP was also conveyed to an online audience when a page regarding the HMP was added to the ResolutionMA website (developed by MOPC and devoted to information about community mediation), and an update about the HMP was included on MOPC’s website. The impact of the collaboration between MOPC and DHCD in increasing public awareness of housing mediation services may possibly be further illustrated by the increase in visits to the ResolutionMA website that followed a December 2020 email notice, requested by DHCD, from the Department of Unemployment Assistance (DUA) (see Figure 1). The email communication from the DUA, which informed recipients of unemployment benefits about resources, also contained a reference to the ResolutionMA website. During the six months before the email was sent, the number of monthly website visits ranged from 70-224 during June-November 2020. In December 2020, when the email was issued, the number of visits leaped to 7,748. Although the frequency of website visits subsequently declined from this December high, monthly visit numbers continued to be notably higher during the six months after the dissemination of the email communication than before, ranging from 841-3,355 visits in the January-June 2021 period. Even if the confluence between the change in the frequency of website visits and the transmission of the DUA’s email might have been coincidence, the end result was that all together more than 17,000 people gained access to website information about community mediation, including housing mediation services.

Figure 1. Monthly visits to ResolutionMA



Over an eight-month period, from November 2020 through June 2021, the HMP screened 505 of the 897 referrals received from the courts, agencies, other organizations, and from members of the public and mediated 239 of 400 cases, yielding a 72% agreement rate. It should be noted that this agreement rate excluded disputes that were resolved under HMP auspices but outside the formal mediation process.

**2.4.2 The Prisoner Reentry Mediation Program (ReMAp):**

Since its inception in 2017, the Massachusetts Prisoner Reentry Mediation Program (ReMAp), administered by MOPC with initial funding from private foundations, provided mediation services to incarcerated persons facing release from prison so that their social integration into the community would be successful and recidivism reduced (see Appendix A). In the early years of the program, services were offered by at most six centers at participating correctional facilities. When foundation support concluded by the end of 2020, the reentry program was brought under the Grant Program umbrella. In FY 2021, Grant Program operational program awards totaling \$181,500 were provided to the 11 centers that opted to join the program, chiefly to support staffing infrastructure for reentry mediation work and for capacity-building that would sustain future reentry mediation programming. Award recipients were expected to retain a reentry case coordinator and at least one trained reentry mediator, participate in mediator-sharing with other centers for reentry program purposes, network with correctional facilities and organizations about providing post-release services, among other responsibilities.

For the most part, ReMAp services to incarcerated persons remained suspended during FY 2021 because participating correctional facilities restricted in-person visits and resisted the use of virtual services. A rare opportunity to provide services became available to two centers. A Middlesex facility made an exception to its refusal of remote services in FY 2021, and during the August-September period, a center was allowed to remotely conduct nine intakes and mediate two cases with incarcerated persons at the facility, and during April-June, another two virtual

intakes were accomplished. In June 2021, a Hampden correctional facility relaxed its proscriptions against in-person interactions with outsiders and permitted a center to inform incarcerated persons about ReMAp services at an in-person presentation. Afterwards, eight incarcerated persons followed up by participating in intakes for mediation services.

Despite the general FY 2021 hiatus in the delivery of services caused by pandemic-related restrictions on outside visitors, MOPC and centers prepared for the resumption of in-person ReMAp services by offering remote trainings and sessions apropos orientation and capacity-building. Centers maintained their relationships with participating correctional facilities, and initiatives to attract more facilities to the program were set in motion. Throughout the 2021 fiscal year, MOPC and centers held discussions about expanding ReMAp to encompass post-release mediation services. Efforts to reach out to organizations providing reentry services and to investigate the potential for cooperation between these organizations and ReMAp centers were begun.

### **2.4.3 The Youth Program:**

The precedent for providing Grant Program support for youth-oriented projects was set some time ago with the practice of awarding pilot funding in the form of community project grants for center's peer mediation and other youth-related initiatives (see Appendix B). The official state-sponsored MA Youth Program was established under the Grant Program framework in FY 2019. In FY 2021, Grant Program provided youth program grant awards totaling \$313,000. Ten centers had existing youth-oriented projects that were funded initially under the grant extension and ten centers received the additional \$18,000 youth bonus award later in the year. Two center youth grantees declined a bonus award, and two new center grantees joined the youth program by accepting a bonus award.

With the expansion of funding, youth program grants secured youth-oriented programming a prominent position on the agenda of funded centers. Collectively, the youth projects involved the delivery of conflict resolution services and/or restorative practices to youth in partnership with schools and organizations and were instituted in a variety of settings, including schools, Boys and Girls Clubs, the YMCA, and other youth service providers. Youth projects also operated under the auspices of the Bridging the Gap program and the Middlesex District Attorney's Office. Peer mediation, restorative circles, conflict coaching, and training were among the services provided through these projects. Other centers were in the process of exploring relationship and program options related to positive youth development. The youth program awards were designed to reinforce centers' youth-oriented work, whether established or prospective, by prioritizing support for staffing infrastructure and for the maintenance and expansion of youth-oriented programming. Thus, acceptance of the youth program awards committed centers to funding a youth coordinator position, providing relevant trainings, conducting youth program-related outreach, working on evaluation and data collection with MOPC, among other activities.

As demonstrated by their reports concerning their youth-related ventures in FY 2021, centers found ways to respond to youth-related issues despite the limitations imposed by the pandemic.

Thus, after a pandemic-related interruption of its mediation services, BCRHA was able to provide in-person services to middle school students towards the end of the school year when in-person classes resumed, and sixth-graders found themselves challenged by their encounters with other students. Ten mediations were conducted for middle school students. MSI was unable to continue its advisory role and provide mediation assistance for the peer mediation program at its partner charter school because the school was fully remote for half the school year and hybrid for the rest of the year. Nevertheless, the center kept in touch with the peer mediators at the school through email, phone calls, and newsletters. Using the Google platform, MSI provided a remote peer mediation training for 12 students and two school coordinators. Similarly, although MSI's in-person youth work at a local Boys & Girls Club was curtailed at first, the center remained in contact with Club staff, updating the latter about the center's virtual services. When the Club reopened in January 2021, the center was one of the few outside organizations given access. Weekly conflict resolution activities and workshops were held by MSI for children from different age groups. MVMP initiated a multi-year mediation training for students at its partner charter school, beginning with sixth-graders and eventually including high schoolers. A ten-week session about conflict resolution concepts and mediation practices was held for two sixth-grade classes. Moreover, MVMP offered two virtual advanced training sessions to youth mediators. MWMS provided remote refresher peer mediation training to eight previously trained mediators at a math and science academy. NSCMC offered remote services to its six partner schools and the YMCA, which were turned down by the schools to avoid "remote-overload." Contact with coordinators at the schools was maintained via email, telephone, and Zoom. Three peer mediations were conducted under NSCMC direction at a middle school once in-person school attendance came into effect. Cape Mediation took initial steps to set up a peer mediation program at a local high school. CDSC hired a youth coordinator and planned a conflict skills workshop for teen parents to be held in summer 2021.

Participation in a newly instituted Youth Program Learning Community was also required from the funded centers that accepted youth program grants. The learning community was formed to enable center awardees to share work experiences, challenges, and opportunities related to youth programs at monthly meetings. The first meeting took place remotely in April 2021.

#### **2.4.4 The diversity, equity, inclusion initiative (DEI):**

The Twelve-Point Model of standards for community mediation directs centers to strive for diversity among their mediators and the parties they serve (see Table 1). The commitment to greater diversity was reinforced by the joint decision of MOPC and funded centers to pursue changes to topple systemic barriers against realizing diversity, equity, and inclusion or DEI.<sup>4</sup> The DEI initiative was created as a means of accomplishing diversity and DEI in centers' and MOPC's operations and in the operations of Grant Program programming. MOPC provided \$500 stipends out of a university research grant to eight centers to organize listening sessions with

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<sup>4</sup> Incidents of violence against Black people by police intensified a national concern with systemic racism and contributed to MOPC's commitment to incorporating DEI into the Grant Program agenda. Also see "Resolution: Massachusetts Community Mediation Centers' update on racism and injustice" on the ResolutionMA website (<https://www.resolutionma.org/home>).

marginalized communities to better understand and respond to their conflict management needs. Additionally, \$60,000 (\$5,000 per center) in bonus Grant Program awards were distributed among the 12 funded centers to support the projects that they had adopted to fulfill the diversity and DEI goals they had set themselves.

## **2.5 REPORTING AND ACCOUNTABILITY:**

MOPC demonstrated its accountability for the administration of the Grant Program through accounts of the Program's operations and accomplishments in quarterly reports from the Program Manager to the Grant Program's advisory body and an annual report from the MOPC Research Unit to specified officials in the executive, legislative, and judicial branches of the state government (see MGL c.75, §47 (h)). Reports were based on information from surveys, a data recording system, sundry center reports about their activities under the Grant Program, and internal office records.

### **2.5.1 Data collection:**

Funded centers are required by statute to provide information about their budget, their services, and other matters needed by MOPC to fulfill reporting responsibilities (MGL c.75, §47 (h)). Over the years, MOPC helped centers generate the necessary data about their operations by conducting a year-end survey and providing access to the case management system, MADtrac. In FY21, MOPC launched an RFP and selected a software developer to create a new database system for collecting operational and programmatic data from state-funded community mediation centers used by MOPC for evaluation, performance-based grant making, compliance, reporting and advocacy. This multi-year project will replace the current technology allowing for a secure, cloud-based database with the capability to allow the utmost flexibility for users that will aggregate data in close to real time. In FY21, MOPC and center representatives serving on a technical team began working with the developer to design the software requirement specifications to enable the system to be built in FY22 and implemented in FY23. Feedback from every funded center about the system design and testing will be solicited in FY 2022. The software development is subsidized out of Grant Program funds and MOPC's research trust fund.

### **2.5.2 Program Advisory Committee (PAC):**

To help MOPC fulfill its administrative responsibilities for the Grant Program, MOPC met with the Grant Program's advisory body -- the Program Advisory Committee (PAC), established in accordance with the enabling statute -- twice during FY 2021 to discuss developments in the Grant Program that were also described in MOPC's quarterly progress reports to PAC members. Some of the issues involved the recruitment of PAC members and compensation -- viz., compensation to PAC members and compensation to volunteer mediators.

Several PAC positions opened in FY 2021 when members' terms expired. The search for individuals to fill these positions preoccupied MOPC and the committee throughout the year. The recruitment process was guided by the need to achieve a committee with a "balanced representation of interests" (MGL c.75, §47(b)) that also encompassed diversity, equity, and inclusion. Eventually, four new members were added to the PAC: a representative from the

Attorney General's Office, a representative of the Probate & Family Court, and the directors of two funded centers.

Member feedback about compensation to PAC members recommended considering whether the time spent by members on PAC work was already covered through members' jobs and whether an honorarium rather than a stipend would be an appropriate vehicle. The debate about volunteer mediator compensation was set in the context of the opportunity costs of voluntary labor, in particular the under-representation of some minority groups among center mediators. Questions that were raised for MOPC to consider concerned the possible elimination of volunteerism at centers, difficulties with fairly selecting which volunteers get paid, the inconsistency of demanding training fees from prospective mediators who would not be paid for their services as a mediator, accommodating attorneys who volunteer to fulfill pro bono work obligations, opposition from private practitioners, and so on.

### **3 IMPACT OF GRANT PROGRAM PARTICIPATION ON FUNDED CENTERS**

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#### **3.1 FUNDED CENTERS:**

The twelve centers awarded Grant Program grants in FY 2021 were the Housing and Consumer Mediation Center (BCRHA), Cape Cod Dispute Resolution Center (Cape Mediation), Community Dispute Settlement Center (CDSC), Collaborative Resolutions Group (CRG), Family Services of Central Massachusetts Mediation Program (FSCM), Greater Brockton Center for Dispute Resolution (GBCDR), Martha's Vineyard Mediation Program (MVMP), Middlesex Community College Law Center (MCC), MetroWest Mediation Services (MWMS), Metropolitan Mediation Services (MMS), Mediation Services of North Central MA (MSI), and North Shore Community Mediation Center (NSCMC) (see Table 2).

**Table 2. FY 2021 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
Collaborative Resolutions Group ( <b>CRG</b> , formerly The Mediation & Training Collaborative or TMTTC) in Greenfield	Independent non-profit	Berkshire, Bristol, Essex, Franklin.* Hampden, Hampshire, Middlesex, Worcester

\*Region predominantly served by the center

The funded centers were community-based grassroots organizations, which were either independent non-profits (eight centers) or components of a non-profit parent organization (four centers).

### **3.2 CENTERS' WORKFORCE:**

Centers delivered their dispute resolution services through a workforce composed of both paid and volunteer workers.

#### **3.2.1 Center staff:**

Based on their collective survey responses,<sup>5</sup> centers operated with more staffing in FY 2021 than in FY 2020. A total of 26 full-time staffers were employed by centers, at an average of 2.17 full-timers per center (and ranging from none to 7 full-time employees). During this fiscal year, 45 part-timers also worked at the centers, averaging 3.75 part-timers per center and ranging from 1 to 14 part-timers. Compared to the previous fiscal year when centers retained 15 full-time staffers (at an average of 1.25 per center) and 43 part-timers (averaging 3.58 per center), centers' FY 2021 staff workforce increased to 73% more full-timers and 5% more part-timers. Staff numbers were further augmented by 27 volunteers. In terms of the three most important staffing needs identified by centers, additional staff was a high-priority need at four centers in contrast to the previous year when nine centers prioritized additional staff. Centers' increased staffing might well be attributable to the use of Grant Program grant monies to strengthen center employee infrastructure particularly for program participation, which might also account for the reduction in the number of centers in need of a larger staff. For the future, a large majority of the centers proposed to strengthen their staffing by increasing salaries (ten centers) or restructuring positions or hours (nine centers). Tellingly, salary benefits were identified as an important need by a large majority of eight centers, in contrast to the six centers that acknowledged such a need the year before.

#### **3.2.2 Center mediators:**

Mediations were mostly conducted by 176 active volunteer mediators across 12 centers (averaging 14.6 per center and ranging from 2-35).<sup>6</sup> The collective mediator rosters contained 364 volunteer mediators. Over two-thirds or 69% of the time spent mediating (2,6216 hours out of 3,781) during FY 2021 was contributed by 166 volunteer mediators. In addition, eight centers collectively deployed 55 paid mediators or consultants.

Centers depended on trainings to recruit additional mediators. In FY 2021, virtual training effectively replaced in-person training, which served to mitigate pandemic-related concerns even

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<sup>5</sup> Centers completed this end-of-FY 2021 survey by October 2021. Staffing data recorded on MADtrac, a case management system which was used by centers to record their activities and other data, indicated that by the end of June 2021 there were 24 full-time staff (averaging 2 full-timers per center) and 35 part-time staff (averaging 2.9 per center) during FY 2021.

<sup>6</sup> The data here derived from responses from all centers to an end-of-FY 2021 survey. MADtrac data, which did not contain data from all centers, indicated that there were 166 active volunteer mediators and 5 paid mediators or consultants.

as other challenges arose. To illustrate: at least two centers found that their use of remote technology for its trainings overcame geographical impediments and attracted out-of-state participants to its training: FSCM held a Basic Mediation Training for Title IX deans and directors from colleges in Massachusetts, Connecticut, and Rhode Island. Residents of Vermont and Connecticut joined MWMS' virtual training. However, MCC developed virtual workshops and trainings for students only to find that attendance was less than expected despite center outreach. CDSC converted its conflict skills workshops to a remote format, i.e., to Zoom, gaining the benefit of avoiding travel and distance problems while losing the benefits of "human interaction and connectedness." Consequently, some centers developed strategies to offset the downside of virtual interactions. Relying on the experiences of CDSC and MSI, MWMS modified its basic mediation training to accommodate a remote format and included such changes as the "use of group chat, and the white board." To encourage a sense of community among the trainees, MWMS organized trainees into small groups that stayed together over the entire training and had trainers make themselves available for casual conversation on Zoom. Ultimately, two of MWMS's trainees joined the centers to act as mediators. CRG redesigned its Basic Mediation Training to accommodate a remote format and to compensate for the absence of in-person interactions, the center introduced more team-building activities and small groups into the training and encouraged participants to seek support from center personnel outside of training sessions. Across all centers by fiscal year's end, more individuals had participated in more center trainings than the year before.

Survey reports indicated that although center outreach led to an increase in volunteer mediators at seven centers, their numbers declined at two centers and held steady at three centers. Ultimately, despite the increase in mediation skill trainings and in trainees, there were fewer active volunteer mediators across the 12 centers in FY 2021 than in FY 2020 -- fewer, in fact, by 35%. Unsurprisingly, the number of centers that considered mediator recruitment and retention a pressing need expanded from four in FY 2020 to eleven in FY 2021. BCRHA speculated that the low participation rate in the BCRHA trainings compared to previous years reflected individuals' preference for in-person training. Likewise, the downturn in active volunteer mediators at two centers was attributed to the use of remote methods for mediating. One center noted that "we [the center] have very few mediators as many volunteers do not want to mediate via Zoom" while a second center found that mediator training was one of the biggest challenges posed by remote services. Aversion to mediating remotely might also have been a factor in the temporary relegation of some mediators to inactive status. Thus, the mediator roster at one center included "in-person volunteers that wished to remain on the roster and are ready to return to volunteering in-person as circumstances allow." NSCMC's approach to activating inactive mediators involved setting up a mentoring program for them.

In light of the challenges confronting volunteer recruitment at several centers as well as the goal to increase diversity, equity, and inclusion among center mediators, the volunteer model for center mediators will be reviewed during the coming year.

### **3.3 CENTER PERFORMANCE -- ACTIVITIES AND ACCOMPLISHMENTS UNDER THE GRANT PROGRAM:**

### 3.3.1 Outreach & education initiatives:

Interest in acquiring mediation assistance for conflict was relatively low as the pandemic progressed from FY 2020 into FY 2021. Centers worked to counter this pandemic effect through outreach efforts that relied heavily on remote activities in place of in-person events. Centers' efforts to publicize community mediation as well as their services largely took the form of trainings, educational initiatives, and distribution of written materials.<sup>7</sup> All 12 centers offered trainings, conducted workshops, distributed literature, and maintained websites. Nearly all centers -- that is, 11 centers -- held presentations, and a majority of 9 centers had a social media presence. Newsletters were produced by half the centers, and conferences were attended by one-third of centers. Other outreach endeavors included a television appearance and attendance at community meetings. Thus, the MSI director's appearance at a local cable access show provided the center with an opportunity to educate the public about mediation.

A total of 435 trainings, including training/workshops in conflict resolution, were offered across the 12 centers.<sup>8</sup> An estimated 4,666 people participated in the trainings, including the conflict resolution trainings/workshops. Centers' outreach and educational activities, which included social media, websites, conferences, and fundraisers, attracted 112,788 people while 135,858 people received newsletters from four centers and 131,316 individuals received outreach materials from 12 surveyed centers. For example, MSI changed its website and social media presence with updated information about its programs. GBCDR developed five videos on mediation services for presentation on Facebook, covering such topics as eviction diversion, helping landlords and tenants navigate pandemic-related eviction issues, becoming a mediator, how to access mediation services, availability of free mediation services, and availability of free remote mediation services. As a result of this outreach, GBCDR received three self-referrals. MCC, for another, produced two advertisements, several public service announcements and newsletters publicizing the center's work, and posted the advertisements on several social media platforms. MCC was unable, however, to track which inquiries from members of the public were generated by which forms of MCC's outreach. Overall, perhaps as many as 384,628 members of the public were made aware of community mediation and center services through center trainings and other outreach efforts.

According to surveyed centers, their outreach efforts had a more limited impact on themselves. With respect to such features as the numbers of paid and volunteer mediators, paid and volunteer staff, in-kind contributions, and community fundraising; center survey reports of a positive impact from their outreach on these features were nearly as frequent as center reports of no

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<sup>7</sup> The information concerning center trainings and other outreach activities that was recorded on MADtrac and reported by centers on the end-of-year survey differed in part because some centers failed to supply the requested information or the activity data categories were not uniform across the two record-keeping systems. The information about center outreach and training activities presented in this paragraph is based upon survey data unless otherwise indicated. Examples of activities conducted by particular centers are based upon center accounts of their SMART goal progress.

<sup>8</sup> The information about participation in center outreach and training activities presented in this paragraph is based upon MADtrac data unless otherwise indicated. Examples of center activities conducted are based upon center accounts of their SMART goal progress.

impact (i.e., 26 positive reports and 27 no impact reports). Meanwhile, centers' outreach efforts were largely productive in terms of community impact. Eleven surveyed centers reported that both public awareness of mediation and participation in trainings by members of the community increased. According to ten surveyed centers, public appreciation of community mediation grew, and nine centers found that community demand for their services rose. One center "received many referrals from community members for help with housing issues after they heard how effective we [the center] were in connecting people with housing resources." There was greater use of community mediation or center services at six centers. At a handful of centers, the demand for services diminished: three centers experienced lower utilization of services while two centers found that fewer community members requested their services. Circumstances affecting demand for services were identified by two centers. According to one center, "technology access affected participation/utilization rates," and, as noted by a second center, the "decrease is due in large part to the pandemic." Between one and three centers found no impact from their outreach initiatives. All told, centers' outreach initiatives probably contributed to the rising demand for their services over the course of the 2021 fiscal year.

### **3.3.2 Promoting mediator availability and excellence:**

Mediators are critical to the essential function of the centers, namely, the delivery of dispute resolution services. Centers, therefore, have an enduring interest in maintaining an adequate supply of skilled mediators on hand to serve the community. Accordingly, each center held mediation trainings (mostly online) in FY 2021 both to assure the quality of their mediation services and to recruit additional mediators. MADtrac records indicated that out of the 3,736 individuals who collectively participated in the 357 trainings that focused on mediation skills, 400 received training in basic mediation, 1,074 were trained in advanced mediation, 2,196 participated in specialized mediation training, and 66 received peer mediation training. Compared to FY 2020, FY 2021 mediation skill trainings increased by 35%, and training participants increased even more by 38%. Another 930 individuals attended 78 trainings or workshops in conflict resolution during FY 2021.

Thus, at MCC, the center's Youth Project provided virtual conflict resolution training as part of the Salvation Army's Bridging the Gap program. Meanwhile, MMS held 25 remote basic mediation trainings over a 5-month period. Participants included members of the Massachusetts Association of Realtors among other individuals. To assure the quality of its trainings, MMS relied on Google forms to promote communication between trainees and the program and to obtain evaluations of the training. MMS also developed a system that enabled coaches for different trainee role plays to share information about trainee performance remotely. GBDCR delivered Basic Mediation training remotely to ten participants, providing for role plays by emailing the roles to participants beforehand and enabling volunteer coaches to observe the role play. Six of the trainees agreed to volunteer at the center although assigning cases proved challenging because of conflicting work schedules. Trainings conducted by BCRHA involved two Basic Mediation trainings for 14 people, one advanced mediation training for eight volunteers, and five trainings at other organizations seeking to improve their recruitment of volunteers.

Centers often charged training fees from trainees. Eight centers reported earning \$108,769 from trainings in FY 2021. Yet, training subsidies were offered by some centers to encourage training participation. Thus, to increase participation in its trainings and promote diversity in the center's workforce, MSI set up a training scholarship in the 2021 fiscal year and offered free training in mediation skills and the mediation process for some participants during the summer of 2020. The center also offered rebates to paying trainees. FSCM awarded scholarships to two of the 20 individuals who participated in the center's remote training. BCRHA, though, refrained from providing training subsidies on account of meager training participation possibly caused by people's preference for in-person training.

Measures were also pursued by centers to retain their present mediators. Thus, CRG promoted mediator camaraderie through online get-togethers, and communication about relevant topics through email and newsletters. At CDSC, the "recognition of volunteer mediators and mentorship "practicum" program [were] on-going," and five book club sessions were held where mediators addressed topics related to mediation and social justice.

Quality assurance of mediation services continued to be addressed by centers. Eight centers adjusted their supervision of mediators, and the administration of the mediator program was revised by seven centers. Nearly all centers (11) offered mediators opportunities to hone their conflict resolution skills by providing for continuing education. For example, Cape Mediation pursued continuing education initiatives for volunteers and staff, inviting four speakers to hold workshops or presentations about diversity, the TPP (the state's Tenancy Preservation Program, which aims to reduce homelessness), among other topics. CDSC held a roundtable for small claims mediators and one for summary process mediators to "discuss cases and tech challenges." At a CDSC Zoom session, best mediation practices were discussed. MSI initiated monthly virtual get-togethers for volunteers that incorporated a continuing education segment. The center's volunteer mediator handbook was amended to include policies about volunteers' engaging in continuing education. MMS held a multi-session conference, attended by 26 individuals from center staff, mediators, board members, and trainees, which addressed such topics as the effect of the pandemic on community mediation, developments regarding evictions and landlord-tenant mediation, and mediation for incarcerated persons slated to reenter into society. MSI "maintained existing performance-based assessment, recognition, and mentorship/apprenticeship programs." CRG "implemented clear written expectations for mediators around CEUs [continuing education units], etc." Furthermore, the adoption of consistency and quality of mediation training across all centers will be evaluated in FY 2022.

### **3.4 DIVERSITY AMONG CENTER MEDIATORS IN FY 2021:**

The assessment of the extent to which mediator diversity was achieved at centers involved two different considerations. One metric entailed comparing the diversity of the totality of center mediators to the diversity of the entirety of Massachusetts' population since centers collectively offered their services in all Massachusetts counties. Hence, apropos gender and racial/ethnic diversity, MADtrac data regarding 219 mediators revealed that, like the state's population, females, males, Asians, African Americans/Blacks, Hispanics/Latinos, Whites, and multi-racial individuals were represented among the totality of center mediators. The data also indicated that

female and White mediators predominated. Out of 145 described mediators, females outnumbered males, 61% to 39%, to a greater extent than in the Massachusetts population, which was 52% female.<sup>9</sup> Among 112 described mediators, 83% were White and comparable to the proportion of 80.6% Whites in the state population. In contrast, the proportions of center mediators from each of the three other major racial/ethnic groups in the state were lower than those in the state population. Six percent of the 112 mediators were Hispanic/Latino, 3.5% were African American/Black, and 4% were Asian compared to 12%, 9%, and 7% for the corresponding groups' share in the Massachusetts' population.<sup>10</sup>

A second metric for evaluating mediator diversity concerned comparisons between the mediator diversity at individual centers and the diversity in their particular communities, which was involved in the Twelve-Point Model community mediation standard that urged individual centers to aim for a mediator pool that reflected the diversity of the communities they served. In this regard, MADtrac data suggested that the racial/ethnic diversity of mediators at any particular center might not reflect the diversity of the region covered by the center. Accordingly, mediator pools were not racially/ethnically diverse at every center. Notably, the four major racial/ethnic groups were represented among mediators at just one center. Four of the centers only had White mediators. Among the other eight centers, only four centers retained Hispanic/Latino mediators, four had African American/Black mediators, and five had Asian mediators.

Centers consulted with representatives from under-represented groups in their service area at listening sessions to identify obstacles to their becoming volunteer mediators and to explore ways to surmount the obstacles. CDSC, for one, learned that language barriers and the financial sacrifice entailed by time away from work discouraged members of its Hispanic/Latino communities from volunteering as mediators. Likewise, work demands, time constraints, and training fees deterred the Brazilian community from joining MWMP as volunteer mediators. Brazilian community representatives pointed out that free trainings might not be enough to attract trainees but that training stipends might invite greater participation.

### 3.5 PROVIDING ACCESS TO CENTER SERVICES:

Pandemic-related limitations on in-person interactions, whether involving individuals or organizations, were obstacles in the way of access to and use of center services. Centers relied on remote technology and outreach activities to increase utilization of their services, and the revitalization in center services shown by the increased frequency of new cases and mediations in FY 2021 indicates that the impediments were at least partially overcome.

All centers made sure that economic barriers to using their services were minimized. The vast majority of cases (74% of 1,962 pending and newly opened cases) were free of charge. Sliding scales, used to adjust service fees to accommodate parties' financial situation, were collectively

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<sup>9</sup> US Census Bureau. QuickFacts Massachusetts. Retrieved December 28, 2021, from <https://www.census.gov/quickfacts/MA>

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

applied by six centers in 100 cases. Full fees were charged by two centers in only three cases. Centers likely earned about \$43,496 from their mediation services.<sup>11</sup>

### **3.5.1 Remote center services:**

For much of FY 2021, the availability of center services critically depended on remote technology. Virtual mediation services were offered by all 12 funded centers. Among the advantages of remote services noted by centers, was “the safe delivery of mediation services during the pandemic” and “uninterrupted services.” Thus, the option of virtual services allowed centers to avoid a hiatus in the delivery of services.

Furthermore, remote services offered the prospect of greater convenience and increased access by removing geographical, transportation, and temporal obstacles to scheduling and attending mediation sessions. Ancillary benefits of remote services that were noticed by centers include:

expansion of the population served --

“Removing geographical and other access barriers to participants and volunteers, allowing us to serve a more diverse population”

“In the great majority, but not all cases, convenience to the parties. This applied to both court referrals and community intakes;”

protection of the environment --

“Realizing how much more effective we can be connecting with others thanks to technology from the comfort of our own homes; reducing our carbon footprint;”

and disposal of the need for additional childcare --

“it [remote mediation] has been a benefit for our clients who do not have to take off a day of work when they have a mediation. They do not have to worry about childcare.”

Besides the advantages conferred by remote services, the technology also presented difficulties for centers to resolve lest access to community mediation be undermined. Processing cases and mediating remotely proved to be more time consuming for centers. “It takes much longer to mediate the cases,” observed one center, and another center noted the “significant increase in time required to screen, conduct and complete cases” virtually.

Additionally, parties’ lack of access to technology and parties’ and mediators’ unfamiliarity with its use were hurdles to the delivery of remote mediation services that centers worked to overcome. As FSCM observed,

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<sup>11</sup> This calculation of mediation fee earnings omits \$316,110 entered by one center on the grounds that the center’s number probably does not reflect mediation fees from parties since the center reported that its services were free of charge.

“this last year has been quite difficult for everyone for many reasons. The lack of access to technology, the need to conduct mediations virtually, and the technological challenges of many contributed to a stark change in mediation numbers and service in general.”

To deliver their virtual services effectively, centers prepared extensively. Disparities in the “tech competency of mediators, staff, clients as well as court personnel” were tackled through training. Eleven centers offered training in conducting remote mediation to mediators. For example, NSCMC accomplished its switch to remote mediation through four group trainings for 30 mediators -- 27 volunteers and 3 staff members. In order to be able to offer virtual dispute resolution services, BCRHA not only “invested in several online platforms,” it also provided trainings and role plays to enhance staff and volunteer mediator skills in using the relevant technology. About 50% of the BCRHA’s staff and volunteer mediators participated in these sessions. Some centers found themselves providing training in remote technology to parties as well: one center which “experienced challenges regarding technology, [resorted to] training parties and mediators to use the various online platforms” while another center reported “helping mediators learn technology and how to mediate using Zoom [and] helping parties learn technology and use technology.” Explaining the remote mediation process to the public and adjusting documentation procedures to the technology were undertaken by all centers. Thus, MWMS adjusted its mediation procedures and protocols for online use: forms were adjusted to conform to remote conditions, e.g., obtaining party signatures via DocuSign. Nine centers turned to other community centers and organizations for advice and assistance in conducting mediation remotely.

Courts, parties, members of the community, and local organizations learned about the availability of remote services from all the centers. MWMS, for instance, met with personnel from the District Courts in its service area to discuss mediating virtually. GBCDR mailed information cards to libraries, senior centers, veterans, the Brockton Clerk’s Office, and all towns in the center’s service area to inform the public that its services were continuing even though the Brockton District Court was closed. Most centers also informed government agencies and other mediation service providers about such services. Word of mouth was the most widely employed means of communication, relied upon by 11 centers. One center, for example, pointed out that it used “word of mouth both with the general public, generating self-referrals, and inter-agency generating agency referrals.” Websites and social media were the most heavily used electronic forms of communication (ten centers each) followed by publicity on radio and television programs (seven centers). Traditional media such as newspapers and press releases were used by a minority of centers to promote their virtual services.

Centers engaged in various strategies to adapt mediation to the constraints imposed by the remote technology itself. Accordingly, GBCDR developed detailed protocols for using remote ADR for small claims and summary process sessions. A different center made it a practice to hold “a Zoom prep call with parties to test technology.” Furthermore, several centers used a Zoom hosting model of remote mediation, where a staffer/mediator manages the technological features of the remote platform while the mediator concentrates on conducting the mediation. Thus, MWMS created a Lead Tech Mediator position that was filled by mediators experienced in

the use of the remote technology who would focus on the technology needs at each mediation session, thereby allowing the co-mediator to concentrate on the mediation process itself. MMS reported “providing hosting assistance to those experienced mediators who were not comfortable with the Zoom hosting technology,” and CRG described “minimizing the technical challenges that could distract from the core work of the mediation[, and] to address this, we [the center] have been using a hosted Zoom model -- a staff member who is not participating in the mediation manages the set-up and use of breakout rooms and is available to troubleshoot challenges, so that the mediators are focused solely on their role as mediators.”

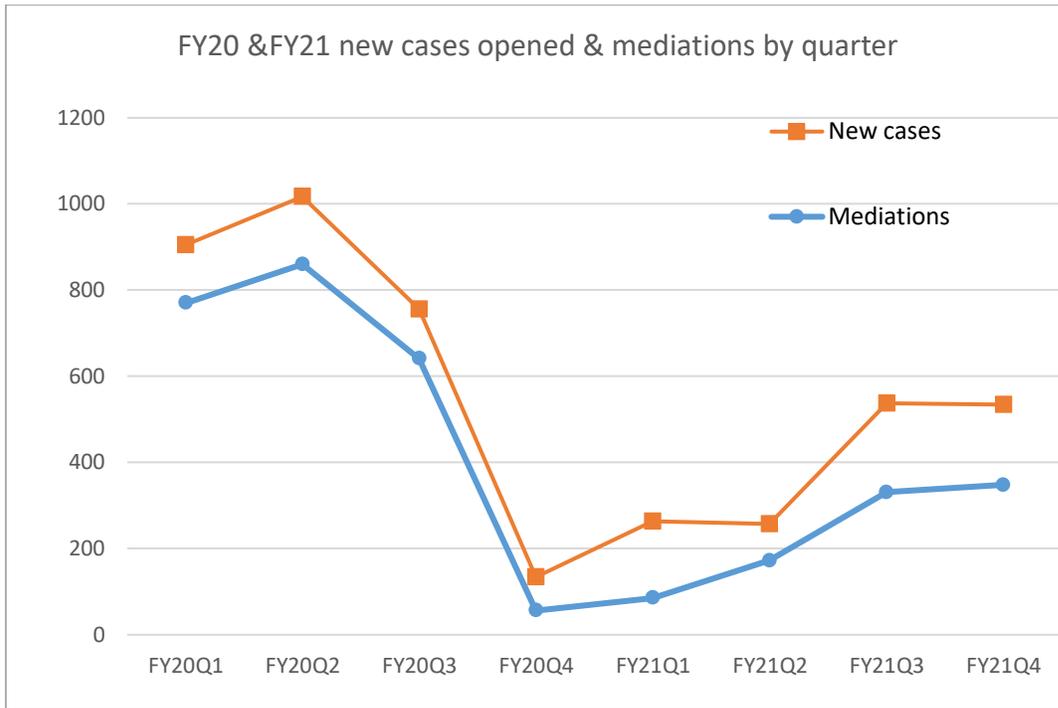
Center efforts to master remote mediation made mediation available to disputants and redounded to the benefit of parties, center personnel, and courts. Some courts took advantage of centers’ offer to provide remote mediation services to parties. MWMS, for one, was instrumental in the establishment of a virtual mediation program with the Framingham and Natick District Courts for Small Claims and Summary Process and with the Concord court for Summary Process. As a result, more than 150 cases were remotely mediated by the center. In contrast, MWMS was not successful in persuading the Concord and Marlborough Courts to allow for virtual mediation of small claims cases. BCRHA’s use of online platforms and deployment of staff and volunteer mediators trained in the technology enabled the center to conduct 171 mediations remotely, 136 of which took place on Zoom and 35 over the telephone. MVMP succeeded in holding 96 virtual mediations even though its effort to substantially extend services to elders and the aging was limited despite referrals from organizations that served elders because “remote services are not easily accepted by [the] elder population.” By the end of FY 2021, an estimated total of 1,279 remote mediations/mediation sessions were collectively conducted by the centers.

### **3.6 GROWTH OF CENTER SERVICES DURING FY 2021:**

The longer duration of pandemic constraints in FY 2021 compared to FY 2020 resulted in an overall lower demand for center services in FY 2021 than the year before. Although centers offered coverage in all Massachusetts counties, the number of informational and referral inquiries fielded by centers in FY 2021 was down by 56% to 2,219. Likewise, the number of new cases opened by centers in FY 2021 fell by 40% since the previous year to 1,700, and mediation numbers declined by 59% to 954. Despite this downward trend in year-to-year statistics, a quarterly analysis revealed a steady climb upward in demand for and delivery of center services during FY 2021 from their lowest point in FY 2020.

As shown in Figure 2, the growth in the number of cases opened and mediated by centers during the first two quarters of FY 2020 was reversed when pandemic restrictions were imposed upon organizations and the public, resulting in a third quarter decline in these services that was then followed by a precipitous drop in services during the fourth quarter (from 756 new cases and 641 mediations in the FY 2020 third quarter to 134 new cases opened and 56 mediations in the FY 2020 fourth quarter). From their nadir in late FY 2020, the quantity of new and mediated cases rose during FY 2021, beginning with an increase to 263 new cases and 85 mediations for the first quarter and ending with an additional 535 new cases and 348 mediations during the last quarter.

**Figure 2. FY 2020 and FY 2021 new cases opened & mediations conducted by quarter**



**3.7 VARIETY IN THE TYPES OF DISPUTES ADDRESSED AND IN THE VARIETY OF SERVICES OFFERED BY FUNDED CENTERS:**

Concerned to address the manifold conflict management needs of their communities, centers endeavored to provide a variety of services for a comprehensive array of disputes.

**3.7.1 Assortment of dispute types:**

During the 2021 fiscal year, centers recorded 1,607 referrals for cases in ten different broad categories of disputes, including business, discrimination, family, government, housing, interpersonal, neighborhood, school, workplace, and juvenile. More than half the referrals (54%) involved business cases, 19% dealt with housing issues, and 11% were family-related.<sup>12</sup> The variety of disputes addressed through centers’ services increased at ten centers as a result of their Grant Program grants. The types of disputes handled by two centers remained unchanged, and no centers saw a decrease in their portfolio of disputes due to their Grant Program grants.

As an example of the expansion of dispute types addressed by individual centers, consider MVMP’s work to increase services for older members of the community, including participation in projects instituted by organizations that serve elders and the aging and providing advanced training in mediating elder issues. In addition, MVMP developed protocols and practices for

<sup>12</sup> Referrals of housing cases to the HMP might have been recorded under one of two categories -- Housing and Business -- since the latter includes landlord-tenant cases as a subcategory -- which may have skewed the distribution of cases.

dealing with multi-generational conflicts. Multi-generational conflicts of ten families were addressed through facilitation or mediation under MVMP auspices. In another example, MWMS created a curriculum in partnership with a professor of communication at a local college for a course on compassionate communication, which focused on the concept of non-violent communication. The course was geared towards individuals who preferred to handle conflicts on their own. MWMS dedicated a website page to publicize the course. The course was offered remotely to 22 individuals, most of whom worked at non-profits. To promote greater diversity among course participants, scholarships were offered to interested people.

Center participation in the Grant Program programs provided centers with opportunities to address several kinds of issues that were linked to different segments of population. Specifically, such population groups as landlords and tenants, incarcerated persons, youth, and various minority groups were typically involved with issues related to housing, reentry, youth, and DEI. Thus, the array of issues that were mediated by the centers involved in the HMP included eviction, rent arrears, overcrowded premises, housing repairs, unpaid mortgages, and lease violations, among others. As for youth-related issues, BCRHA mediated student disputes related to pandemic-related difficulties in adjusting to in-person schooling after a year's absence and remote classwork.

### **3.7.2 Variety in center services:**

Mediation, whereby disputants discuss their issues and explore ways to achieve a mutually acceptable resolution to their dispute with the assistance of a trained neutral person,<sup>13</sup> was the primary dispute resolution service offered by centers. When appropriate, centers also provided disputants with alternative methods of resolving issues that, like mediation, were discourse-based and non-adversarial, such as conflict coaching, conciliation, peer mediation, and restorative practices. Utilization of these services was impacted by pandemic restrictions.

Conflict coaching is a one-on-one process in which a dispute resolution specialist, such as a mediator, helps a party improve his or her conflict management skills.<sup>14</sup> This service is particularly useful when one side in a dispute is interested in dispute resolution assistance and the other side is not. MVMP, for example, was a resource for financial conflict coaching and financial planning that did not overstep into financial advising. The center coached three families on completing the financial statement required for divorce. Eleven people received coaching that was helpful for setting and meeting financial goals without conflict. BCRHA publicized its conflict coaching services but found the demand for its services was minimal. Nevertheless, during the year, the center facilitated a conflict coaching session. FSCM provided training in conflict coaching for two staff hires and completed an intake for an individual interested in such coaching.

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<sup>13</sup> Mass.gov. Other alternative dispute resolution services. Available at <https://www.mass.gov/info-details/other-alternative-dispute-resolution-services>

<sup>14</sup> New York Peace Institute. (2018). Conflict coaching. Retrieved December 22, 2021, from <https://nypeace.org/conflict-coaching/>

Conciliation services are available to the attorneys who represent parties in a dispute. Under the guidance of a neutral, the settlement of a case is pursued through a process that involves examining the strengths and weakness of each side of the dispute.<sup>15</sup> Thus, MWMS established a conciliation program for civil matters at the Framingham/Natick district court. In response to pandemic constraints, a remote conciliation orientation training was held by Cape Mediation to draw experienced conciliators into participating in the center's remote conciliation project.

Peer mediation is mediation conducted for disputing youthful parties by a neutral peer trained as a mediator.<sup>16</sup> This form of mediation -- included among the youth-oriented projects run by centers in the Grant Program youth program -- is typically but not exclusively used in school settings. During FY 2021, the operation of peer mediation services was hampered by pandemic limits on in-person school gatherings. MSI provided remote peer mediation training to 12 students, although they were unable to exercise their mediation skills because of restrictions on school attendance. To prepare for the resumption of in-person school attendance, MCC trained 16 students to be peer mediators.

Restorative practices, rooted in the principle of remedying harm, evolved into various structured personal interactions that aim to promote prosocial conduct among participants.<sup>17</sup> BCRHA held a remote Restorative Justice Harm Circle for high school students. MCC held two remote restorative circles involving ten people under the auspices of its peer mediation program. MCC also developed a model for virtual restorative justice practices and for feedback surveys to be shared with interested centers. However, the actual use of remote restorative practices in school settings was generally held in abeyance until school attendance became in-person because of a belief that restorative practices worked best in-person. CRG also engaged in efforts to educate school personnel and students about restorative practices, e.g., by holding seven workshops in restorative practice training and skill-building at a charter school and by distributing tickets among ten staffers and students to enable attendance at a restorative practices program event.

## 4 SNAPSHOT OF CENTER ACTIVITIES OVER THE YEAR

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### 4.1 CHANGES IN CENTER OPERATIONS SINCE THE PREVIOUS FISCAL YEAR:

In general, center operations and services changed for the better for one or more, but not usually for all, of the 12 centers in FY 2021. Mediation services were provided to more population groups by all 12 centers and for more types of disputes by nine centers. Staff and mediator professional development also expanded at majorities of centers (eight and nine centers, respectively). At four or fewer centers, the use of sliding scale fees, fee waivers, mediator diversity, and in-kind donations increased and at one center, staff turnover decreased. On the

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<sup>15</sup> *Ibid.* Also see Massachusetts Uniform Rules of Dispute Resolution ([Supreme Judicial Court Rule 1:18](#)).

<sup>16</sup> Winkelspecht, C. R. (2007, December 17). Evaluation of a school-based peer mediation program: Assessing disputant outcomes as evidence of success. Dissertation, Auburn University, Auburn, Alabama.

<sup>17</sup> Eisenkraft, K.O. (2021, February). Restorative justice: History and evidence of effectiveness. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston.

other hand, center operations or services declined with respect to mediator diversity, use of sliding scale fees, and in-kind donations at one center each and staff turnover rose at six centers. At two centers each, sliding scale fee use, fee waivers, and in-kind donations were unchanged.

#### **4.2 Center activities during FY 21 -- the impact of Grant Program grants on centers:**

According to ten of the surveyed centers, the increased sustainability of their center was attributable to their Grant Program grants. As one center acknowledged, “the funding from MOPC remains imperative to Center functioning.” In addition, two other centers held that center sustainability remained stable (that is to say, was unchanged), and no center reported a decline in center sustainability. Centers’ budget numbers speak to the importance of the Grant Program for center viability. The \$2,286,660 in Grant Program grants received by the centers was the source of almost half or 51% of centers’ collective cash income of \$4,464,396 in FY 2021.<sup>18</sup> In contrast, monetary contributions from non-MOPC sources (state, local government, donations, fundraising, the Attorney General’s Office (AGO), etc.) amounted to \$1,589,893, which accounted for 36% of total centers’ budget. In fact, the contributions from the major single sources of funding to centers other than the Grant Program were lower in FY 2021 than the year before: Trial Court funding decreased 6% to \$430,359 and AGO grants shrank 15% to \$378,000.

Centers attributed some of the changes in their staffing, operations, and services to their Grant Program grants. The positive effect of Grant Program grant money was felt by the greatest number of centers across all specified categories of operations, such as center sustainability; staff numbers, hours, turnover, and professional development; mediator diversity and professional development; the number of active volunteer mediators, and fundraising. Indeed, an average of 4.5 centers, in a range of 1 to 10 centers, reported decreased staff turnover and increases in all the aforementioned categories. The broadest positive impact of grant monies was on center sustainability, reported by ten centers. The constructive impact of grants on staff hours and on the professional development of staff and mediators was nearly as widespread, reported by nine centers. Meanwhile, over all categories, operation stability -- specifically, the absence of change -- was attributed to grant monies by an average of 3.4 centers, with most centers noting the lack of change in mediator pool diversity (eight centers) and in fundraising (seven centers). However, decreases in operations were noted by a few centers apropos the number of active volunteer mediators (two centers), fundraising (two centers), and mediator pool diversity (one center). FSCM explained that its negative response regarding volunteer numbers arose from circumstances other than the grant: “The grant did not cause a decrease of volunteers. There was, however, a factual decrease which had more to do with lack of access and/or understanding to/of technology.”

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<sup>18</sup> The budgets submitted by centers to MOPC at the end of the fiscal year did not uniformly include the entirety of the FY 2021 Grant Program grants that were awarded. Grant payments for the fourth quarter of the fiscal year were distributed after the end of that year, and these payments were included in some center budgets and not in others depending on centers’ bookkeeping methods. When the entirety of the awarded grants was taken into account, the overall center budget amount was calculated to be \$4,464,396.

Similarly, Grant Program grants positively affected the delivery of services at most centers, enabling increases in mediation services to more people (11 centers) including more low-income or un/under-served people (10 centers), for more types of disputes (10 centers), and in the hours available for mediation (8 centers). One center, for example, found that the scope of its services expanded to include housing cases and that an increase in staffing allowed its services to be offered to more populations while making mediation scheduling easier. MMS reported on the benefits of grant support for more staff:

“The grant enabled us to bring on an additional full time staff member who has been incredible. It also enabled us to bring on a part time staff member and helped fund a Spanish and Portuguese speaking mediator. This has enabled us to reach more folks in those communities.”

Moreover, there were more mediation locations and fewer scheduling delays at five centers each.

According to several centers, their assessment of the impact of grants on their services was influenced by pandemic circumstances. On the one hand, the pandemic negatively affected some centers. Thus, one center attributed the decline in its mediation services to “fewer in-person sessions” due to COVID. Another center indicated that the impact from grants on its services was not applicable because “we have not been receiving demo data back from mediation participants very often over the past 18 months particularly.” On the other hand, the challenge presented by the pandemic led other centers to discover a silver lining to the pandemic storm cloud, metaphorically speaking. Thus, for one center, “while the circumstances of the pandemic hindered and reduced some activity, the move to remote services had the effect of enabling other activity.” At a second center, “the persistent pandemic has created a challenging set of circumstances that required the re-invention and adaptation of our mediation and training services, which were extremely successfully done, thanks to the hard work and loyalty of staff, mediators and board.”

## 5 IMPACT OF CENTER SERVICES ON THE POPULATION SERVED

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The Grant Program’s contribution to the continued functioning of funded centers during pandemic times redounded to the benefit of the people who received center services.

### 5.1 COURT AND NON-COURT REFERRALS:

The funded centers were all approved alternative dispute resolution (ADR) providers for the Massachusetts court system. As such, centers maximized the potential for providing their services to people from all over the state.

Pandemic-related constraints, introduced during the third quarter of FY 2020 and endemic during the last quarter of that year, persisted in varying degrees throughout FY 2021. Nevertheless, just like the year before, centers continued to offer mediation services at all the Massachusetts Court Departments and at a large majority (71%) of the 116 divisions of the Trial Court.

**Table 3. Numbers for MA Trial Court Departments and Divisions served by Community Mediation Centers funded through the CMC Grant Program in FY2021<sup>19</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

Even so, the limited number of courts that slowly opened and accepted remote ADR services over the year generated 1,074 referrals to community mediation, fewer by 41% than the 2,178 court referrals produced in FY 2020 when courts were fully operational during the first three quarters of that year. As for closed cases referred by courts, the District and Probate Court Departments were the major referral sources. The greatest number of closed cases were referred by the District Courts (83% of 1,096 closed case referrals), and the second highest referral numbers were generated by the Probate Court Department (that is, 11%). Within the Departments, referral activity varied by court. Some District courts, busy clearing the backlog of cases accumulated during their closing, were not ready to make referrals for ADR. On the other

<sup>19</sup> Based on court approved programs list for 2019-2021 unless otherwise indicated: see <https://www.mass.gov/lists/approved-alternative-dispute-resolution-programs>

hand, a probate court provided referrals to NSCMC even when courts were officially closed. Only the Land and Housing Court Departments made no referrals to center mediation.<sup>20</sup>

Percentagewise, the reduction in court-referred cases since the previous fiscal year was reflected in a 13 percentage-point smaller proportion of court referrals received by centers in FY 2021 compared to FY 2020 (i.e., 66% versus 79%, respectively). In contrast, even though the number of non-court referrals were lower in FY 2021 compared to the previous year, their share of all referrals grew by approximately 13 points. The 543 non-court referrals comprised about one-third or 34% of the FY 2021 total referrals while in FY 2020, nearly one-fifth or 21% of 2,758 referrals were non-court referrals.

## 5.2 DIVERSITY IN THE POPULATION SERVED BY CENTERS IN FY 2021:

Grant money helped nearly all (11) centers to increase the number of people they served in FY 2021, presumably as the year wore on. By year's end, 3,119 parties reportedly received mediation services. However, assuming a minimum of two parties per case and given an FY 2021 total of 1,962 pending and newly opened cases, the number of parties served in FY 2021 might be closer to 3,900. According to surveyed centers, diversity among the population served increased at six centers while remaining unchanged at five and was inapplicable at one. Out of 3,117 parties, 1,129 or 36% identified their race/ethnicity. This low response rate from parties about their racial/ethnic origin precludes a determination of the racial/ethnic composition of the entire FY 2021 population served. At most, party responses indicated that all the major racial/ethnic groups of the Massachusetts population were represented: nearly two-thirds of the survey sample (63%) self-identified as White; 13% were Hispanic/Latino; 10% were Black, and 5% were Asian. Compared to the year before, the proportionate representation of the major racial/ethnic groups was relatively stable. A year earlier, 61% (of 2,921 respondents) self-identified as White, 16% as Hispanic/Latino, 13% as African American/Black, and 5% as Asian. Ten centers reported serving more low-income or un/underserved people. This reported increase might refer to the growth in the proportion of low-income parties served rather than their absolute numbers. Thus, the 276 FY 2021 surveyed parties who reported their income level, indicated that people of all income levels -- from \$0-9,999 to more than \$65,000 -- were served by centers. The majority of respondents (54% of 276) were lower income, earning less than \$40,000 per year. Among all the listed income levels (from \$0-9,999, increasing in \$10,000 increments to more than \$65,000), the highest income level contained the greatest number of parties: 25% or 69 respondents earned more than \$65,000 annually. There was also growth in the proportion of individuals in the over \$65,000 income category since the previous fiscal year: 25% of parties reported earnings exceeding \$65,000 in FY 2021 compared to the 22% who did so in FY 2020.

In FY 2021, centers strove to expand their services to parties who represented the diversity of the communities in their region with respect to such characteristics as gender, education, age, race,

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<sup>20</sup> Three referrals attributed to the Housing Court involved cases that were pending in the Housing Court but were actually referred to the HMP by an outside organization and not by the Court.

ethnicity, income level, among others, through a variety of initiatives. CRG, for instance, committed itself to an anti-oppression approach in its work (that is, to work to end the oppression of people), and added at least four individuals to its board who agreed to “participate in anti-oppression strategic planning process.” CRG’s new board members self-identified as Asian American, African American, and Latino. In addition, CRG incorporated a session on culture, bias, and power dynamics in problem-solving into its Basic Mediation training and as a stand-alone training for its mediators. The center’s mediator training incorporated a cultural humility approach that drew upon “lived experience with oppression and its impacts, personal awareness of bias and privilege, cultural impact on communication patterns, identifying and dealing with power dynamics, techniques and approaches for creating more equitable mediation spaces, and a review of structural issues with current mediation models.” At MCC, the staff participated in an anti-bias training offered by the Boston Law Collaborative. MCC also developed virtual workshops on racial/ethnic and social media training, in which eight middle school students participated, that involved a focus on anti-racism practices. MVMP conducted a workshop on financial literacy in Portuguese as part of its ongoing effort to increase its involvement with the Brazilian community on the island.

As an investment in achieving future party diversity by increasing the use of center services by members of underserved communities in their service area, centers engaged in listening sessions with community members so as to better identify the impediments preventing these communities from using their services. At its listening session with members of the Khmer community, which was simultaneously translated from English into Khmer and subsequently transcribed into both English and Khmer, MCC found out that the family and the community itself were the major resources for assistance in resolving interpersonal, school, neighbor, business, and other conflicts. When expertise was needed to settle disputes, e.g., for criminal matters, experts like lawyers would be used. MVMP learned about differences in cultural attitudes toward conflict resolution from representatives of the Vineyard’s Brazilian community. Family and church were important social factors, and mediation was an unfamiliar concept to those people in the Brazilian community for whom agreements were largely achieved through discussion, handshakes, and the honor system. Further complicating matters, involvement with the center might be avoided for fear of being exposed as undocumented. MWMP was told that the lack of English proficiency was a major issue for the Brazilian community in its service area and that addressing the language barrier might increase the community’s use of center services. Also, the community might be more likely to turn to the center’s community mediation services if the service providers were fluent in their language, understood the community, and had the trust of parties (particularly of undocumented individuals).

### **5.3 MEDIATION BENEFITS CONFERRED UPON PARTIES:**

#### **5.3.1 Settling disputes through mediation agreements:**

Disputing parties were able to settle their disputes through agreements reached through mediation provided by centers. In FY 2021, out of 1,617 closed cases, 663 were not mediated

(41%) and 954 were mediated (59%). As a result of mediation, a 70% agreement rate was achieved, where 61% of mediated cases involved full agreements, 8% involved partial agreements, and 1% involved telephone or other agreements. Despite the widespread use of remote forms of services by centers over FY 2021, there was little appreciable change in the agreement rate produced therefrom compared to preceding years. Between FY 2017 and FY 2020, the agreement rates achieved in those years varied from 71% to 74%. Even though the mode of delivery of services from funded centers in FY 2021 differed from previous pre-pandemic years because of the widespread substitution of remote for in-person services, the resultant agreement rate of 70% not only aligned with earlier agreement rates but also continued the multi-year trend of attaining agreement rates that exceeded the typical agreement rate of 66% for community mediation in general.<sup>21</sup>

The benefits accruing to parties from mediation may be illustrated by the successfully mediated consumer, landlord-tenant, and parenting disputes during this fiscal year. Thus, a total of \$1,547,296 were recovered by parties in consumer and landlord-tenant disputes that were resolved with assistance from mediators at centers that collectively received \$378,000 in Face-To-Face (FTF) program grants from the Attorney General's Office (AGO). As a result of centers' mediation services, the amount recovered amounted to a four-fold increase of the AGO's FY 2021 investment. As for parenting disputes arising from the context of divorce or separation which were mediated by funded centers under the auspices of MOPC's Parent Mediation Program, all 21 surveyed parties were assisted by mediators in completing or partially developing a parenting plan that, among other things, included arrangements for parent's access to and time with the child. With respect to the noncustodial parent's time with the child, mediators reported that 36% of 168 mediation sessions led to agreements to increase the noncustodial parent's parenting time.

#### 5.4 IMPACT OF CENTER SERVICES ON PARTIES' RELATIONSHIP:

For most parties, mediating was a positive experience. Out of the 3,119 parties served, 248 or 8% of the parties evaluated services furnished by nine centers. Among surveyed parties, most approved of the mediation process. Large majorities were satisfied with their mediation (91%), were willing to recommend mediation to others (91%), and preferred mediation to alternative services (83%).

Collecting documents, particularly surveys, from parties was especially challenging when mediation was remote. Nonetheless, nine centers were able to obtain survey information about the impact of mediation on parties' relationship from 253 parties. The vast majority of responding parties did not report any harm to their relationship with the other party from mediation. Instead, a large number of respondents reported improvements in their party relationship. According to a substantial majority of the respondents, the impact of mediation on their relationship was either positive or neutral. Accordingly, conflict between parties decreased

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<sup>21</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.

for just over half or 51% of 251 respondents; and for just under half or 49% of 250 respondents, the ability of parties to handle disputes increased. Moreover, communication between parties was better for a substantial minority of 42% of 250 parties. However, while approximately one-third of 251 parties considered that their relationship with and opinion of the other side were improved (for 33% and 32%, respectively), larger minorities ranging from 46% to 43% of respondents found that these conditions were unchanged. Small minorities of 2% through 13% of surveyed parties considered that these conditions had taken a turn for the worse.

## 6 ECONOMIC IMPACT OF STATE OPERATION FUNDING

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MOPC, as part of its program evaluation of the CMC Grant Program, collects and analyzes data to establish the impact of community mediation in courts, schools and neighborhoods. Data gathering is conducted quarterly through the submission of data reports generated through a case management database system (MADtrac), through a comprehensive annual performance-based grant application process where centers detail center activities and through an annual survey to the centers that captures full-year data after the conclusion of the grant year. The case management database records all center activities, including how many persons were served, how many volunteer hours were contributed, the number of disputes resolved, moneys saved to parties and other mediation outcomes, and even demographic information. A second software program (STATtrac) is used to aggregate the data from all centers. MOPC has reviewed the reliability of this data through the definition of various data points, continuous training of center staff and triangulation with data from the survey and grant applications. MOPC expects that these cost and outcome measurements will lead to even more robust economic evaluations of the CMC Grant Program in the future. In the interim, MOPC developed the following economic analysis indicating what the costs and benefits from the

CMC Grant Program would look like based on empirical as well as assumed estimates<sup>22</sup> (some estimates are derived from other states' empirical estimates).<sup>23</sup>

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

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<sup>22</sup> From the point of view of outcomes theory, an *effect-size* is formally defined as the amount of change in a higher-level outcome within an outcomes model that can be fully attributed to the causal effect of a lower level step within the same outcomes model. See Duigan, P. (2009-2012). Types of economic evaluation analysis. Outcomes Theory Knowledge Base Article No. 251. Retrieved from <http://outcomestheory.wordpress.com/2011/10/21/types-of-economic-evaluation-analysis-2m7zd68aaz774-110/>

<sup>23</sup> It must be noted that, where an assumption-based approach is used in this analysis, it is used because there is not enough empirical information to robustly determine what the effect-size actually is.<sup>23</sup> Indeed, few measures of effectiveness will be perfectly reliable, but it is important that the most reliable measure be employed wherever available or the one that meets minimal standards. In most cases, finding a correlation between an alternative and a measure of effectiveness will be possible. It is hoped that the following preliminary economic analysis will provide some direction and guidance for a more robust economic analysis to follow.

The major problem with all forms of cost-benefit analysis is that monetary outcomes are the only outcomes considered. Most service providers and some other interested parties believe that the most important outcomes can hardly be quantified, much less monetized (translated into monetary outcomes). To note that some nonmonetary outcomes, such as reduced crime, can be monetized does not eliminate, but only reduces, this problem. This does not necessarily mean that cost-benefit analysis is itself unwise. Problems arise when only one perspective is considered; it is important to adopt multiple perspectives in cost-outcome analyses (Yates, 1999).<sup>24</sup> Therefore, it must also be noted that even a robust cost-benefit analysis will struggle to ascertain the holistic outcomes and/or benefits of community mediation.

Any holistic estimation of community mediation costs and benefits must take into account the unique features of community mediation, such as, for example, the psychosocial impact of mediation and the utilization of volunteer mediators, which ask for a non-commercial and more holistic analysis of the impact of community mediation. Executive Director of Community Mediation Maryland, Lorig Charkoudian argues that the “cost of mediation,” [meaning, cost of community mediation] “has both a financial cost as well as an emotional cost. The total cost, then, of using mediation includes the emotional costs, which cannot be measured directly, the opportunity cost and any financial cost on top of that.”<sup>25</sup>

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

Hence, in this evaluation of the CMC Grant Program, MOPC analyzes both the monetized as well as the non-monetized outcomes of community mediation. However, this section of the report deals solely with the monetized outcomes or the Return on Investment (ROI) of state operational funds spent on publicly funded services of the state dispute resolution office (MOPC) and 12 state-funded community mediation centers.

This economic analysis of MA community mediation is divided into three distinct analyses: 1) cost of intervention analyses, which simply show what it costs to run an intervention; 2) cost-

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<sup>24</sup> Yates, B. T. (1999). Measuring and improving cost, cost-effectiveness, and cost-benefit for substance abuse treatment programs. National Institute on Drug Abuse, NIH publ, (99-4518).

<sup>25</sup> Charkoudian, L. MACROScope letter to the editor. Retrieved on December 17, 2012, from [http://www.mdmediation.org/sites/default/files/Mediation%20and%20Money\\_1.pdf](http://www.mdmediation.org/sites/default/files/Mediation%20and%20Money_1.pdf)

effectiveness analyses, which show what it costs to achieve a certain effect;<sup>26</sup> and 3) cost-benefit analyses, which show the overall costs and benefits of an intervention.<sup>27</sup>

Cost-effectiveness analysis is a technique that relates the costs of a program to its key outcomes or benefits. Cost-benefit analysis takes that process one-step further, attempting to compare costs with the dollar value of all (or most) of a program's many benefits. These seemingly straightforward analyses can be applied any time before, after, or during a program implementation, and they can greatly assist decision-makers in assessing a program's efficiency.<sup>28</sup>

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

## 6.1 COST OF INTERVENTION ANALYSIS OF MA COMMUNITY MEDIATION

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

Methodology:

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

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

Effect-size estimation:

- Before FY 2013 funding, centers without any state funding through the trial court since FY 2009 were facing dire financial issues. There was a possibility that most/some centers would go out of business.

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<sup>26</sup> This is the relationship between program costs and program effectiveness. "There is no single standard for "cost-effective." Generally, the term is used loosely as a way of saying that something probably costs less, or is more effective, than something else. Cost-effectiveness indices can be compared for different programs..." (Yates, 2009).

<sup>27</sup> This is the measurement of both the costs and outcomes in monetary terms. "Costs and benefits can be compared between programs or contrasted within a single program. Cost-benefit analysis can also discover whether program expenditures are less than, similar to, or greater than program benefits." (Yates, 1999).

<sup>28</sup> Cellini, S. R., & Kee, J.E. (2010). Cost-effectiveness and cost-benefit analysis. In Wholey, J. S., Hatry, H.P., & Newcomer, K.E. (Eds.), *Handbook of practical program evaluation*, 493-530. San Francisco, CA: Jossey-Bass.

- A survey administered in the 1990's of court-connected ADR programs shows the average annual administrative cost (at the time) per each program/center was \$34,500.<sup>29</sup>
- In FY 2021, the total cost of operating the twelve community mediation centers was \$2,584,602, which is an average of \$215,834 per center.
- Re-investing in existing community mediation centers with established networks of volunteers, referral sources and programmatic funders, instead of creating new centers averted the necessity of re-launching Massachusetts community mediation.

Cost of Intervention: If all 12 centers active in Massachusetts in FY 2021 closed without state operational funding, using the administrative costs of programs from the 1990's as a baseline start-up cost, \$586,000 would have to have been appropriated by the Commonwealth of Massachusetts just to restart 12 community mediation centers in FY 2021. Any return on investment that appears in this report would not have accrued in FY 2021 until centers launched their operations in full by recruiting new staff, re-establishing networks of volunteers, referral sources and other funders. This would amount to \$2,584,602, which is an average of \$215,834 per center to regain their operations to the current level. Centers would also have had to reestablish good will, reputation, trust and social capital through community outreach and education. This would have taken months or possibly years to accomplish and at the cost of an unknown sum of money.

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

Effect-size estimation:

- Massachusetts Legislature invested \$732,160 in grants to 12 community mediation centers. In the same year, 12 Massachusetts community mediation centers conducted 954 mediations (down from 2,320 mediations in FY20). Using the state grant program investment as the cost, the estimated intervention cost of the grant program is \$767 per mediated case.

Cost of Intervention:

The Massachusetts cost of intervention is \$767 per mediated case.

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

Effect-size estimation:

- The Massachusetts Legislature invested \$732,160 in grants to 12 community mediation centers FY 2021.
- 12 grantee Massachusetts community mediation centers served a total of 3,119 clients in FY 2021 (including case intakes and mediations), and provided a total

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<sup>29</sup> Cratsley, J. C. (2000). *Funding court-connected ADR: Helping people resolve conflicts*. Boston, MA: Supreme Judicial Court-Trial Court Standing Committee on Alternative Dispute Resolution.

of 2038 mediation hours (down from 4047 mediation hours in FY 2020) by volunteer mediators, staff and board members.

- The average cost of intervention of the Massachusetts CMC Grant Program is \$100 per client and \$209 per mediation hour.<sup>30</sup>
- The hourly rate for a private mediation practitioner is around \$225-\$288 an hour.<sup>31</sup> Additionally, lawyers charge \$388-\$595 an hour (Associate vs. Partner) in legal fees.<sup>32</sup> In some cases, this figure may be as high as \$1,500 per hour.<sup>33</sup>

Cost of intervention:

MA CMCs cost between \$203,000 and \$435,000 by cost per hour of community mediation overall, while private mediation would cost an estimated \$459,000 to 1,212,000 estimated by cost per hour of private mediation. This is an estimated cost benefit of between, approximately \$250,000 and \$314,000, or on average approximately around \$280,000 in cost savings. Based on the state grant program investment in MA community mediation, MA community mediation centers cost 108%-138% less per hour than hiring a private mediator and between 185%- 285% less per hour than hiring a lawyer to resolve your dispute.

## 6.2 COST-EFFECTIVENESS ANALYSIS OF MA COMMUNITY MEDIATION.

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

Methodology:

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

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<sup>30</sup> This is in line with a notable study conducted in 1985 to compare court costs with dispute resolution program costs per case at the Durham Dispute Settlement Center. The evaluation found that the average per-case cost to Durham City, county, and State to process a case of the type handled by the Center was \$186. In comparison, cases handled by the Center cost \$72 per case. Sheppard, B., *Report to Durham Dispute Settlement Center on the Comparative Costs of Going to Court vs. Mediation*, Durham, North Carolina: Duke University, 1985.

<sup>31</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>32</sup> Massachusetts Lawyer's weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

<sup>33</sup> *The Wall Street Journal*. Legal Fees Cross New Mark: \$1,500 an Hour. Retrieved November 15, 2017, from <https://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

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

### *Effectiveness*

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

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

- In FY 2018 Maryland’s Mediation and Conflict Resolution Office (MACRO) received \$274,279 from the state for its operating expenses, excluding salaries.
- In addition, Community Mediation Maryland (CMM), the state’s community mediation technical assistance provider, received state operating funds amounting to \$260,000 to provide technical assistance, including monitoring and evaluation to Maryland community mediation. Importantly, grant program administration services are conducted by MACRO. The total state operational funding in FY 2018 for mediation program administration in Maryland was \$554,279 (excluding salaries for MACRO staff).
- In FY 2021, the Massachusetts Office of Public Collaboration (MOPC) spent \$404,890 for administering grants to 12 community mediation centers and related operational expenses, designing and implementing the CMC Grant Program and the provision of technical services such as grant administration, and monitoring and evaluation.

Cost-effectiveness:

The administrative expenses of the state dispute resolution office (MOPC) in Massachusetts, combined with the program administrative expenses of the Massachusetts’s community mediation grant program costs **38% less** than the administrative cost of the Maryland dispute resolution office and Maryland’s community mediation administrative costs. The cost-effectiveness ratio of Maryland community mediation grant program administration compared to Massachusetts grant program administration is 1:1.3.

### **6.3 COST-BENEFIT ANALYSIS OF MA COMMUNITY MEDIATION.**

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

Methodology:

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

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

## Cost

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

Effect-size estimation:

- Research indicates that landlord/tenant mediation in Massachusetts can prevent eviction by over 22% as compared to adjudication or negotiated settlements.<sup>34</sup> Administrative data from the Berkshire County Regional Housing Authority Mediation Program indicates that mediating landlord-tenant cases resulted in 93% of the tenants preserving their tenancy in FY 2020.<sup>35, 36</sup>
- 12 community mediation centers served 400 housing cases under the MA Housing Mediation program (HMP), the majority of which is assumed to have resulted in tenancy being preserved.
- The cost of one eviction in Massachusetts is between \$4,780-\$5,180 in lost rent (\$2,400), pre-trial costs (\$180), trial costs (\$500), and post-trial costs (\$1,700 to \$2,100).<sup>37</sup> The cost of mediation would be \$1,000,000 in state funding to CMCs.
- Based on the Massachusetts DHCD, the costs to the Commonwealth of providing emergency shelter are, on average, \$54,450 per family per shelter stay.<sup>38</sup>

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<sup>34</sup> Landlords obtained executions in 75% of adjudicated cases and 79.8% of non-mediated/negotiated cases but only 52.7% of the time in mediated cases. The study indicates that mediated cases allow for the possibility of possession reverting to the tenant with “a good number of the mediated cases in which execution did not issue representing cases in which evictions were avoided. This suggests that mediated cases are less likely to lead to evictions than the alternatives.” Kurtzberg, J.; Henikoff, J. (1997). Freeing the parties from the law: Designing an interest and rights focused model of landlord/tenant mediation. *Journal of Dispute Resolution* 1997(1), p. 99.

<sup>35</sup> From July 1, 2019 through June 30, 2020 the Berkshire County Regional Housing Authority’s Mediation Center has mediated 207 Summary Process Eviction cases, with a result of 193 Mediated Agreements or 93% success rate. Out of the 193 Mediated Agreements, 129 resulted in the preservation of the tenants’ (an adult and an individual 18 or under in the household) tenancy or out of all cases mediated, 62% resulted in a tenancy being preserved.

<sup>36</sup> Based on the data from the Berkshire County Regional Housing Authority Mediation Program, many of these instances, tenants were given over a month through mediation whereas a hearing would typically result in a 10 day vacate order. This data shows that even if tenancies are not being preserved through mediation, the process is providing a time frame that is realistic and beneficial for all parties. With more time given to tenants to move out, landlords are also avoiding fees that would otherwise have to be paid to gain possession of the unit.

<sup>37</sup> Mass Landlords.Net figures, retrieved November 29, 2017 <https://masslandlords.net/laws/eviction-process-in-massachusetts/>

<sup>38</sup> Boston Bar Association. June 2020. *Assessing the Benefits of Full Legal Representation in Eviction Cases in Massachusetts*. Retrieved, December 5, 2020. Available at <https://bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf>

- The average length of a homeless shelter stay across the state is 267 days.<sup>39</sup> At a conservative cost of \$100 (cost per shelter night), 267 days of stay (average number of days a family spends in shelter) amounts to \$26,700 which is the average cost for each family entering the Massachusetts EA-Family Shelter System.

Cost-benefit:

Based on the \$54,450 per family of avoided costs per shelter stay, and assuming that only a conservative figure of 22% of the 400 families who participated in housing mediations avoided emergency shelter costs, the state of Massachusetts saved an estimated \$4,791,600 (or 88 x \$54,450\*). Additional costs of 400 potentially un-avoided evictions, if not for housing mediation in Massachusetts, are \$1,912,000 in lost rent (\$960,000), pre-trial costs (\$72,000), trial costs (\$200,000), and post-trial costs (\$1,700 x 400 = \$680,000).

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

Effect-size estimation:

- In 1992, the cost of processing 3,660 juvenile cases in a year using mediation at the Haverhill District Court in Massachusetts was estimated at \$2,464,197, while the cost of processing this number of cases in court was estimated to be \$5,691,995, which is a cost saving of \$3,227,798 for a year.<sup>40</sup> This is an average saving of \$882 per case.
- Based on the above figures, the cost of a juvenile case going through court was \$1,555. The cost of mediation, according to the same study, was \$673 per case.
- Massachusetts community mediation centers received 37 cases from the Juvenile Court and helped resolve 20 juvenile cases in FY 2020 (19 full agreements, one partial agreement).

Cost-benefit:

At an average saving of \$882 per case to the District Court, Massachusetts community mediation centers mediated 20 juvenile cases referred by the Juvenile Court<sup>41</sup> with an estimated cost saving of \$17,640 for the respective District Courts.

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

Effect-size estimation:

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<sup>39</sup> *The Growing Challenge of Family Homelessness Homeless Assistance for Families in Massachusetts: Trends in Use FY2008-FY2016*. (2017, February). Retrieved November 30, 2017, from [https://www.tbf.org/~media/TBFOrg/Files/Reports/Homelessness%20Report\\_Feb2017R.pdf](https://www.tbf.org/~media/TBFOrg/Files/Reports/Homelessness%20Report_Feb2017R.pdf)

<sup>40</sup> From a report titled *Expanding juvenile mediation in Massachusetts* from the Crime and Justice Foundation cited by Cratsley, *op. cit.*

<sup>41</sup> 267 cases reached full agreement, 133 telephone settlement and 1 reconciliation.

- Twelve Massachusetts community mediation centers conducted 1,071 (down from 2,167 in FY 2020) mediations in the District, BMC, Probate & Family, and Land Courts in Fiscal Year 2021. The resolution rate of community mediation centers in FY 2019 is 70%, or 749 cases.
- The Oregon Department of Justice report found that “the cost of resolving a case by taking it through a trial to a verdict (\$60,557) is, on average, the most expensive process [the cost to the state – including judicial system - in civil cases involving the state of Oregon]. At the other end of the spectrum, mediation costs about \$9,537.<sup>42</sup>
- Assuming a conservative cost-saving to the court of \$500 per case, and that all 749 cases avoided trial, Massachusetts community mediation centers have saved an estimated \$374,500 to the court system from avoided trials in Fiscal Year 2021.

Cost-benefit:

Massachusetts community mediation centers have saved an estimated \$374,500 to the court system from 749 successful mediations in the District, BMC, Probate & Family, Juvenile, Housing and Land Courts in Fiscal Year 2021.

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

- On average, parties can save between 40-78 hours in attorney time through mediation.<sup>43</sup> Massachusetts community mediation centers mediated 954 cases in FY 2021. If each mediated case in Massachusetts reduced attorney time by 4 hours, mediating parties saved around 3,816 hours of attorney time thanks to mediation.
- Lawyers can charge \$388-\$595 an hour<sup>44</sup> (associate vs. partner) in legal fees per case for sending Lawyer’s Letters, court appearances, etc.). In some cases, this figure may be as high as \$1,500 per hour. Assuming a very conservative legal fee avoidance of only \$200 per party per case, Massachusetts disputing parties served by community mediation centers saved a minimum of \$763,200 in legal fees alone.
- Costs to parties would include filing fees that are between \$40 and \$150 per party in Massachusetts.<sup>45</sup> For small claims disputes concerning amounts less than \$7,000,

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<sup>42</sup> Oregon Department of Justice figures, retrieved December 17, 2012 from [www.doj.state.or.us/adr/pdf/gen74031.pdf](http://www.doj.state.or.us/adr/pdf/gen74031.pdf)

<sup>43</sup> Results of a mediation pilot program in California with comparable services in Massachusetts. Anderson, H. & Pi, R. (February 2004). *Evaluation of the Early Mediation Pilot Programs*. San Francisco, CA: Judicial Council of California, Administrative Office of the Courts. Retrieved from: <http://www.courts.ca.gov/documents/empprept.pdf>

<sup>44</sup> Massachusetts Lawyer’s weekly 2013 rates for lawyers. Retrieved on November 24, 2015, from <http://masslawyersweekly.com/2013/10/11/the-going-rates/>

<sup>45</sup> Massachusetts Court System <http://www.mass.gov/courts/court-info/filing-fees/dc-fees-gen.html>

private mediation practitioners can charge \$185 an hour.<sup>46</sup> Assuming an extremely conservative figure of only \$100 was avoided in filing fees, Massachusetts disputing parties served by community mediation centers saved a minimum of \$95,400 in avoided filing fees.

Cost-benefit:

Massachusetts disputing parties saved a minimum of \$858,600 in legal fees and avoided filing fees from 954 cases mediated in FY 2021.

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

Effect-size estimation:

- Twelve Massachusetts community mediation centers maintained a roster of 758 volunteer community mediators (2198 active mediators) who contributed 2,616 hours of pro bono mediation services in FY 2021.
- At private market rates, the value of this pro bono work is estimated at \$483,960 at \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate).<sup>47</sup>
- If employed as an hourly wage earner, with the mean hourly wage for a mediator in the nation at \$34,<sup>48</sup> the total value of these pro bono mediation hours would amount to \$88,944.

Cost-benefit:

758 volunteer community mediators (198 active mediators) at twelve Massachusetts community mediation centers contributed 2,616 hours of pro bono mediation services in FY 2021, the value of which is estimated at \$483,960 at \$185 per hour (based on a conservative estimate of a private practitioner minimum hourly rate)<sup>49</sup> or \$88,944 at an hourly wage of \$34 for a permanent employee (hourly wage for mediator – national average).<sup>50</sup>

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<sup>46</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>47</sup>The actual costs can be higher. The Massachusetts Dispute Resolution Service's standard fee for a mediation session with one neutral of two hours is \$575.00 per party. This is \$287.50 per hour, for the first two hours. Thereafter, the rate is \$225 per hour. Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>48</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

<sup>49</sup> Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 24, 2015, from <http://www.mdrs.com/fees>

<sup>50</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 24, 2015 from <http://www.bls.gov/oes/current/oes231022.htm>

The benefit-cost ratio of leveraged pro bono mediation services is 1:1.5, or for every dollar invested by the Legislature in FY 2021, centers generated a benefit of fifty cents of pro bono mediation services, making Massachusetts community mediation a highly-leveraged investment.

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

Effect-size estimation:

- Centers leveraged an extra 2,399 hours of pro bono administrative services from staff/volunteers/board members and interns in FY 2021.
- At an estimated cost of \$19.20 an hour (mean hourly wage for administrative services in Massachusetts),<sup>51</sup> the pro bono administrative services leveraged by the twelve centers are worth \$46,060.

Cost-benefit:

Community mediation centers leveraged 2,399 hours of pro bono administrative services from board members, staff and volunteers in FY 2021 worth \$46,060.

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

- The Massachusetts Legislature invested \$1,490,000 in operational grants to the Community Mediation Center Grant Program in FY 2021. The Community Mediation Center Grant Program awarded \$732,160 in operational funds to 12 community mediation centers.
- The 12 MA community mediation centers used the state operational investment to leverage an additional \$2,127,556 from other private, state, local and/or Federal government sponsors/funders, including private foundations.
- Centers used these funds to address critical public needs under the Massachusetts (12-Point) model of community mediation and to further expand their community mediation missions.

Cost-benefit:

Twelve Massachusetts community mediation centers leveraged a dollar and forty-three cents (\$1.43) for every dollar invested by the Commonwealth of MA, or a benefit-to-cost ratio of 1:1.4 per every dollar of operational funding provided under the Community Mediation Center Grant Program.

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

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<sup>51</sup> United States Department of Labor, Bureau of Labor Statistics. Retrieved November 10, 2013 from [http://www.bls.gov/oes/current/oes\\_ma.htm#43-0000](http://www.bls.gov/oes/current/oes_ma.htm#43-0000)

#### Effect-size estimation:

- Based on survey responses, 12 Massachusetts community mediation centers trained 239 community members as mediators in FY 2021. Each 40-hour mediation course has a market value of \$925 per trainee.<sup>52</sup> The total value of these basic mediation trainings amounts to \$221,075.
- Based on survey responses, twelve centers also trained 41 persons in conflict resolution. The net cost of a conflict resolution training is \$250 at a private mediation training institution.<sup>53, 54</sup> The total value of these conflict resolution trainings amounts to \$10,291.
- Based on survey responses, 12 centers provided advanced mediation training (divorce, eviction, etc.) to 508 persons. The net cost of an advanced mediation training at a private mediation training institute is estimated at \$825.<sup>55, 56</sup> The total value of these advanced mediation trainings amounts to \$419,100.
- Centers trained 4,180 in total trainings. At a very conservative cost estimate of \$50 per person, these trainings could cost an estimated \$209,000 in other venues.
- The total value of these training services to the communities is worth an estimated at \$859,466.

#### Cost-benefit:

Twelve Massachusetts community mediation centers trained 4,180 community members (239 in basic mediation, 508 in advanced mediation, 41 in conflict resolution trainings) in FY 2021, the total benefit of which is worth an estimated \$859,466.

Based on the FY 2021 state investment in community mediation, the benefit-cost ratio of leveraged mediation trainings to communities is 1:1.6 – or for every dollar invested by the state

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<sup>52</sup> The rate charged by Mediation Works Inc., which is similar to a community mediation center in that, along with other community mediation centers, MWI once received funding from the Trial Court. Mediation Works Inc. Retrieved November 24, 2015, from <http://www.mwi.org/mwi-mediation-training-conflict-resolution-skills/mediation-training-weekends-mediator-training.html>

<sup>53</sup> Center for Conflict Resolution Training. Retrieved November 21, 2016, from <http://www.ccrchicago.org/training-programs.html>

<sup>54</sup> The cost can be as high as \$850. The Institute of Mediation and Conflict Resolution. Community Mediation Training. Retrieved November 11, 2017, from <https://www.imcr.org/community-mediation-training/>

<sup>55</sup> Mediation Works Inc. Retrieved November 21, 2016, from <http://www.mwi.org/mediation-training-careers-in-meditation-advanced-meditation-training/divorce-mediation-training.html>

<sup>56</sup> The cost can be as high as \$1,650. The National Conflict Resolution Center. Advanced Mediation Training Curriculum. Retrieved November 21, 2017, from <http://www.ncrconline.com/mediation-conflict-resolution-training/worshops/advanced-meditation-skills>

Legislature in FY 2021, centers leveraged an extra sixty cents worth of mediation training to community members.

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

- The Massachusetts Attorney General’s Office provided \$378,000 to twelve Massachusetts community mediation centers funded by the CMC Grant Program in FY 2021 for conducting face-to-face consumer mediations.
- Using the AGO numbers, twelve Massachusetts community mediation centers helped parties recover \$1,547,296 in FY 2021.

Cost-benefit:

The Massachusetts Attorney General’s Office provided approximately \$443,000 to twelve Massachusetts community mediation centers in FY 2021 for conducting face-to-face consumer mediations. The twelve centers helped parties recover \$1,547,296 in FY 2021.

The benefit-cost ratio of the consumer mediation funds provided by the Massachusetts Attorney General’s Office is 1:4.1– or for every dollar invested by the AGO in Massachusetts community mediation, consumers are recovering four dollars and ten cents from consumer mediation agreements.

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

Effect-size estimation:

- The Ohio Commission on Dispute Resolution found that schools managed to save an average of \$331 from each averted student suspension or expulsion through the successful use of student peer mediations.<sup>57</sup>
- Massachusetts community mediation centers conducted 12 peer mediations that is assumed to have resulted in avoided student suspensions or expulsions in FY 2021.<sup>58</sup>

Cost-effectiveness:

Schools saved an estimated \$3,972 from avoided student suspensions or expulsions as a result of 12 successful peer mediations conducted by Massachusetts community mediation centers. The true benefit-cost ratio cannot be determined since funding for the Student Conflict Resolution

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<sup>57</sup> The Student Peace Alliance, *op. cit.*, citing Hart, R. C., Shelestak, D., & Horwood, T. J. (2003, February). *Cost savings report on school conflict management program*. Kent, Ohio: Kent State University, Bureau of Research Training and Services. Retrieved October 29, 2011, from <http://www.studentpeacealliance.org/learn/ohio-conflict>.

<sup>58</sup> Based on data from school discipline records, conduct grades, and ratings of anti-social behavior, researchers found that peer mediation reduced student anti-social behavior by one-third (Garrard, W. M. & Lipsey, M. W. (2007, Fall). Conflict resolution education and antisocial behavior in U.S. schools: A meta-analysis. *Conflict Resolution Quarterly*, 25:1, 9-38).

Experts (SCORE) Program of the Attorney General’s Office in collaboration with community mediation centers and school communities was defunded in 2009.

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

Effect-size estimation:

- The average cost of private divorce mediation is estimated at \$5,000 per case.<sup>59</sup>
- Eight Massachusetts community mediation centers conducted 28 divorce mediations in FY 2021.

Cost-effectiveness:

The average cost of private divorce mediation is estimated at \$5,000 per case. Massachusetts community mediation centers conducted 28 successful divorce mediations in FY 2021. Assuming the mediations were conducted for free, parties to the 28 successful divorce mediations saved an estimated \$140,000.

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

Effect-size estimation:

- Massachusetts community mediation centers conducted 14 complex multi-party mediations in FY 2021.
- If the complex multiparty mediations involved four parties and concluded in one seven-hour session (full-day mediation session), the estimated cost of one complex multi-party mediation case would amount to \$6,200.<sup>60</sup>
- Assuming an average cost benefit of \$6,000 per case, these centers have saved a total of \$84,000 to the disputing parties.

Cost-effectiveness:

Massachusetts community mediation centers saved \$84,000 to disputing parties in 14 complex multi-party mediations in FY 2021 at an average saving of \$6,000 per case.

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

Effect-size estimation:

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<sup>59</sup> Hoffman, L. (2006, November 7). To have and to hold on to. *Forbes*. Retrieved December 14, 2012, from [http://www.forbes.com/2006/11/07/divorce-costs-legal-biz-cx\\_lh\\_1107legaldivorce.html](http://www.forbes.com/2006/11/07/divorce-costs-legal-biz-cx_lh_1107legaldivorce.html).

<sup>60</sup> Full-day mediation session Massachusetts Dispute Resolution Services. Fee schedule. Retrieved November 16, 2017, from <http://www.mdrs.com/fees>

- Massachusetts community mediation centers conducted 91 successful family mediations in FY 2021. Research indicates that family mediation can reduce legal fees by between \$270-\$730.<sup>61</sup>
- Assuming an average cost of benefit of reduced legal fees of only \$270, Massachusetts community mediation centers have saved \$24,570 in legal fees to parties from 91 family mediations.

Cost-effectiveness:

At an average saving of \$270 in legal fees per case, Massachusetts community mediation centers have saved \$24,570 in legal fees to parties from 91 family mediations.

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

Effect-size estimation:

- Five Massachusetts community mediation centers conducted 4 successful workplace mediations in FY 2021.
- The Mediation Training Institute International (MTI) found that a conflict cost a New England organization \$60,916.77.<sup>62</sup>
- This estimation will use an assumed conservative cost of \$10,000 per workforce conflict (10% of the cost identified in the MTI case).

Cost-effectiveness:

Assuming a resolved workplace conflict saved a conservative average sum of \$10,000 for a local organization, a total of \$40,000 was saved for local businesses/organizations from 4 workplace mediations by Massachusetts community mediation centers in FY 2021.

## **6.4 SUMMARY OF ECONOMIC ANALYSES**

### **Cost-savings from MA Community Mediation in FY 2021: \$ \$10,074,178**

1. \$4,791,600 saved in shelter costs from 88 avoided homeless shelter use.
2. \$1,912,000 in additional cost savings from 400 mediated cases recovering lost rent etc.
3. \$1,547,296 recovered by consumers from consumer mediations.

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<sup>61</sup> A study conducted in the 1980s in Denver, Colorado found that the average legal fee paid by those successfully using mediation was \$1,630, but that those who rejected mediations paid between \$1,800 and \$2,360 in legal fees. In Pearsons, J., & Theonnes, N. (1984). Mediating and Litigating Custody Disputes: A Longitudinal Evaluation. *Family Law Quarterly*, 17(4), 497-524. Retrieved from <http://www.jstor.org/stable/25739353>

<sup>62</sup> Mediation Training Institute International. Retrieved December 20, 2012, from <http://www.mediationworks.com/mti/costs1.htm>

4. \$858,600 saved from avoided attorney and filing fees from 954 cases mediated.
5. \$374,500 to the court system/state from 749 successful mediations avoiding trial.
6. \$280,000 saved overall from 2,038 community mediation hours vs private mediation hrs.
7. \$140,000 saved to parties from not using private mediators in 28 divorce mediations.
8. \$84,000 saved to parties from 14 complex multi-party disputes.
9. \$40,000 saved to local businesses/organizations from 5 workplace mediations.
10. \$24,570 saved to parties from avoided legal fees in 91 family mediations.
11. \$17,640 saved from 20 juvenile cases referred by juvenile court.
12. \$3,972 saved to schools from avoided suspensions/expulsions in 12 peer mediations.

**Resources Leveraged by MA Community Mediation in FY 2021: \$3,931,042**

1. \$2,127,556 in additional state, federal and/or private foundation funds raised by centers from \$732,160 in state operating grants.
2. \$859,466 of mediation and conflict resolution trainings for 4,180 community members.
3. \$483,960 leveraged by 758 volunteer mediators at 12 community mediation centers.
4. \$414,000 from re-investing in existing centers with established networks of volunteers, referral sources and programmatic funders.
5. \$46,060 from 2,399 hours of pro bono administrative services from volunteer administrators, board members and interns.

The total return on the state’s FY 2021 investment of \$1,490,000 in the Grant Program was **\$14,005,220**.

This robust return was achieved during a year that included pandemic circumstances, during which the value of assistance with housing disputes and of training to strengthen skills for managing personal conflict was enhanced even as the demand for dispute resolution services was depressed.

## 7 CONCLUSION

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The state’s \$2.7 million investment in the Community Mediation Center Grant Program for FY 2021 was critical to the continued functioning of 12 community mediation centers and enabled the centers to rise to the challenge that the COVID-19 pandemic posed for community mediation. The state’s support effectively underwrote center initiatives to preserve the option of community mediation services for meeting communities’ conflict resolution needs. Funded centers engaged in outreach efforts that provided 384,628 members of the public with information about center services, particularly about the availability of remote ADR services;

they refined their proficiency in providing remote services, participated in programming to address the problems of homelessness, recidivism, youth violence, and systemic injustice, and embarked on other endeavors that set the use of community mediation services on the path to recovery from its low point at the end of FY 2020. Although the quantity of centers' performance actions fell short of those in previous years, the numbers of newly opened and of mediated cases steadily increased in FY 2021 so that by the year's end, 1,700 new cases were opened, 954 cases were mediated, and disputes were settled in 70% of mediated cases, resulting in more than 3,000 people benefiting from center services. Ultimately, Massachusetts as a whole benefited from the Grant Program in FY 2021 by virtue of the estimated \$14 million return on the state's investment in the Program.

## 8 RECOMMENDATIONS

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The FY 2021 evaluation report continues to demonstrate the link between State investment and service expansion/improvements across the community mediation network through foundational operating grants and additional program grants to centers. The ability of the Governor's Office to use existing established publicly funded dispute resolution infrastructure to serve important housing needs in the Commonwealth arising from the COVID-19 pandemic demonstrated that the Grant Program continues to be both responsive and relevant in an increasingly challenging world. A high rate of agreements reached in mediation and evaluation data indicating widespread party satisfaction both point to continued operational successes.

The pandemic-related closure of courts, schools and correctional facilities continued to impact the overall volume of mediation activities and cases served but as the State began to re-open in the Fiscal Year 2021 case numbers showed a promising rebound. There continues to be a correlation between sufficient funding and stability of staffing which allows for delivery of services. The substantially increased funding in FY 2021 allowed centers to build their staffing capacity and helped centers offer a wider range of services to a broader segment of the public in partnership with more organizations, and thus increased contributions to access to justice while raising awareness and addressing significant social challenges. Once again, despite pandemic-related constraints, there were signs of growth and resilience in all four areas measured under the Twelve-Point Model of Community Mediation in MA (service, access, quality, and diversity). To ensure the continued availability of these benefits, it is recommended that:

### **8.1 The Commonwealth should continue to sponsor and invest in community mediation through the Grant Program.**

Increased operational and program grants in FY 2021 greatly enhanced the resiliency and sustainability of community mediation centers. The Community Mediation Center Grant Program continues to demonstrate its on-going value for public agencies, citizens, and communities even during the straitened circumstances arising from the coronavirus pandemic. Continued support in the form of operational, programmatic and infrastructure funding from the Commonwealth is critical.

## **8.2 The Grant Program should continue to support centers' efforts to build public awareness of services.**

Despite lack of access to face-to-face engagement with the public, community mediation centers have continued to expand their outreach via the use of social media as recommended in last year's evaluation to connect with the public. To build on expanded outreach, MOPC and funded centers should explore ways of clarifying and tailoring its messaging to encourage community mediation centers to be the first go-to resource for people in conflict.

## **8.3 Centers should integrate learning from listening sessions with under-served communities into their culture and practices.**

In FY 2021, community mediation centers embarked on a series of listening sessions with under-served communities, and this engagement generated valuable lessons about broadening diversity, equity, and inclusion practices. Although ten centers reported an increase in service to these communities during FY 2021, there continues to be work that needs to be done. To widely serve, educate, attract volunteers, and engage members of these communities, this process of listening and learning should be expanded and reflected in all areas of center work.

## **8.4 The community mediation model of services through volunteers should be assessed for impacts on diversity and inclusion.**

During FY 2021, fewer people were willing to volunteer because of health-related concerns or lack of access to or knowledge about technology as well as cultural differences and economic challenges. The model of community mediation supported by the Grant Program is based on volunteerism. MOPC and funded centers should reflect on these challenges and the continued viability of the model and how it impacts efforts to dismantle structural racism. Appropriate strategies for increasing access and ability to participate should be explored, including compensation for mediators to cover time and expenses associated with volunteering to remove barriers. To measure success of these efforts, there needs to be expanded data gathering and the elimination of barriers to its collection.

## **8.5 The Grant Program should investigate the value of establishing consistent training standards among centers to enhance the quality of community mediation services.**

During FY 2021 community mediation centers put significant effort into adapting training to online platforms and building new skills for mediators around the use of technology as well as increasing the amount of training offered. Mediators can now mediate across the state and even over state boundaries because of remote service delivery, and there are many examples of collaboration and centers using each other's human resources and of Grant Program-funded programming across the state which actively promotes such collaboration. The current standards of training for mediators set by the Trial Court allow for a great deal of flexibility in approach, and each court-approved center is responsible for complying with court requirements. MOPC and funded centers should collaboratively consider whether there should be commonality and consistency of training quality standards and if so, establish ways to address this issue.

## **8.6 Grant Program data gathering methods and technology should be updated and widened to highlight impact and value of state-sponsored community mediation.**

Grant Program-funded community mediation centers are offering an ever-expanding range of services, including conflict coaching and restorative practices and, by virtue of new programming and remote service delivery, are significantly expanding the work of case coordinators who increasingly triage access to a range of other local resources for the parties they serve. The Grant Program needs an effective data gathering and reporting mechanism to demonstrate the importance of this expanded work and illustrate its value, which has grown since the Program's inception. The new cloud-based case management database system currently under development should allow for a wider range of data to be captured that reflects current and future practice and can support the demonstration of impact and value of services offered across the spectrum. Meanwhile, the current database system should be adjusted to allow such data to be recorded to the extent feasible.

## 9 APPENDICES

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### 9.1 APPENDIX A: RE-ENTRY MEDIATION PROGRAM

#### **Re-entry Mediation Program**

Director, Community Mediation Programs, Massachusetts Office of Public Collaboration

The Re-entry Mediation Program (ReMAP) is administered by MOPC in partnership with qualified Community Mediation Centers (CMCs) from regions across the state.

The Program vision is that re-entering individuals who are incarcerated can break the cycles of reincarceration and recidivism upon returning to the community by strengthening their family and social relationships with the support of community-based conflict resolution services. The specific program goals are to provide a statewide, state-sponsored re-entry mediation program for those who have experienced incarceration, pre-release, post release or are at risk of experiencing incarceration using existing state-funded conflict resolution infrastructure) that:

1. builds better pro-social relationships, post-release stability and conflict skills
2. reduces the rate of reincarceration, recidivism, and post-incarceration risks (instability).
3. involves formerly incarcerated people in the program

Funding of “at least \$200,000” for pre-release services was appropriated for the first time in fiscal year 2021 through the state budget as part of the Community Mediation Center line item (7100-0700) and is supplemented by in-kind contributions from community partners. The actual budget for re-entry was \$223,302, 82% of which was for Center infrastructure and capacity building and 18% for MOPC operations. This State funding was confirmed half-way through FY 2021 when the pandemic had closed all correctional facilities. MOPC and the Centers therefore focused their efforts on re-establishing services, building capacity for expansion, re-designing the program to include post-release and remote service delivery, and building the necessary institutional/organizational relationships to allow for all those in need of re-entry mediation services to be able to access them. Prior to the development of the full program, pilot programs were funded in FY 18-20 by grants from local foundations.

#### **Re-entry program background**

The State of Maryland (MD) has been using community pre-release mediation for re-entering people who have been incarcerated since 2007. An independent evaluation of the re-entry mediation program of Community Mediation Maryland (CMM) titled Re-entry Mediation In-Depth Recidivism Analysis (Flower, 2014) found that the probability of arrest is reduced by 13% for those who mediated compared to those who did not. The number of sessions is also a significant factor – with each additional mediation session, the probability of arrest was reduced by 8%. The probability of conviction was reduced by 15%, for those who mediated compared to

those who did not and with each additional mediation session, the probability of conviction was further reduced by 9%. The probability of being sentenced to incarceration was also reduced by 10%, for those who mediated compared to those who have not, and with each additional mediation session, the probability of conviction was further reduced by 7%. Additionally, among those returned to prison, the probability of being returned for those who mediate is 12% less than those who do not mediate. A second key finding is that the Cox Regression survival analysis reveals that mediation reduces the hazard (or risk) of all outcomes reported compared to those who do not mediate irrespective of variables such as age, average days sentenced, and the number of times previously incarcerated (Flower, 2014). Additional data suggests that regardless of who the mediation is between, what subject matter is discussed and whether a final agreement is reached, the above data holds true, showing the importance of offering the chance to participate in a non-judgmental, confidential, self-determined face to face pre-release planning session. Full data is available at <http://re-entrymediation.org/>

Existing re-entry programming in MA has focused on practical issues of substance abuse, housing, work opportunities and education. Re-entry mediation is a new, distinct, and complementary approach which concentrates on relationship building and social network development in the community based on criminal justice research that highlights the importance of family and pro-social relationships in reducing recidivism. By rebuilding relationships, pre-release re-entry mediation involves strengthening connections, allowing for collaborative transition planning involving the re-entering person and their family and other support people in the community. Research has shown that the first 72 hours from release is a significant indicator of recidivism risk and thus this process allows for practical planning which might impact this critical period. The impact of mediation is believed to be akin to a critical course correction (hence the name of the program ReMAp) to turn an individual away from a criminal trajectory through the improved relationship with family and support persons and adherence to agreements and plans made during mediation.

With technical support from MD, MOPC first introduced the concept of re-entry mediation to Massachusetts in 2016/7 and began training a cohort of specifically re-entry trained mediators. Thanks to Foundation seed funding, a small pilot was launched in Boston in FY18 through MOPC's existing relationships with two CMCs under an MOU between MOPC and the MA Department of Correction. The goal of the initial pilot was refining program design, gathering program evaluation data, and providing initial evidence to support a budget request for State funding. Additional Foundation funding obtained over FY19 and FY20 allowed expansion in stages to eventually include eight correctional facilities – two run by DOC and six by County Sheriffs with services provided directly by six Centers with two further Centers involved indirectly. In the first part of FY21 services came to a halt due to COVID in all but very limited situations through remote mediation, and while the annual appropriation remained uncertain.

### **Re-entry Program Objectives**

Following the receipt of State funding, the FY21 redefined program identified the following objectives:

1. Expand in-person pre-release re-entry mediation services to all interested County Sheriff Departments and appropriate DOC facilities for people who have been incarcerated to mediate with community connections, within a period of 12 months pre-release, to ensure sufficient planning and workable agreements that mitigate harmful socio-relationship failures pre-disposing a risk of recidivism.
2. Investigate delivery of additional on-site pre-release mediation services according to demand including mediation between incarcerated individuals, mediation between staff and incarcerated individuals, conflict skill building, mediation between family members where a release is not imminent and the delivery of remote services where necessary.
3. Provide high quality re-entry mediation training opportunities for Centers funded through the Community Mediation Center Grant Program to allow them to deliver re-entry services and to support mediators in using the “Inclusive Listening” model of mediation and staff coordinators in adhering to program processes for intake, mediation, evaluation of cases.
4. Deliver post-release services under a statewide framework responsive to local needs including post-release mediation, outreach, skill-building and conflict resolution training for relevant community members and organizations.
5. Recognize and value the experiences of people impacted by incarceration by involving them in listening sessions, trainings and advisory and Center governing committees, and by providing post-release services to fit their own identified needs around conflict.
6. Investigate the provision of services that include pre-incarceration elements through services such as restorative practices to deploy a holistic conflict resolution approach that for example seeks to interrupt the school-to-prison pipeline, cycles of poverty and other social needs.
7. Expand existing vigorous program policies and evaluation methods overseen by MOPC to provide for effective program administration and accountability to build on the best practice principles from MD.
8. Serve as a model for replication across Massachusetts and in other states through evidence of successful program implementation and impact.

### **FY21 Re-entry Program Grants**

In FY21 eleven of the twelve CMCs who receive operational funding from MOPC expressed an interest in re-entry programming and received grants of \$16,500 each to allow them to engage in a range of activities under the four categories of capacity building, program re-design, outreach and service delivery and to test if the program was a good fit for their Center.

#### Capacity building:

All 11 Centers identified one part-time designated re-entry coordinator and worked towards a minimum of 3 trained mediators. There were significant challenges due to COVID-19 around establishing an in-person training for new mediators (MD's requirement) which limited this growth in FY21 (the training was eventually held in October FY22). However, Centers participated in at least 6 orientation/capacity building/refresher sessions and the first session of a new training by MD was held to orient Center Directors to the program. The Program uses a specific model of mediation originating in Maryland known as "Inclusive Listening" which employs a different staged process emphasizing non-judgmental listening skills and has proved especially valuable for a population that has been incarcerated. Experienced MA mediators have been specifically trained in this model over several years but due to turnover of volunteers and lack of opportunities to practice due to pandemic closures, additional capacity was needed. Cloud-based shared resource materials were developed for self-learning including access to a pre-recorded mediation role-play as were remote capabilities and processes for delivery of remote services where necessary. Mentorship of newer members and collaboration between Community Mediation Centers to boost capacity and strengthen learning has been encouraged and the Program operates as a statewide network where staffing and mediator sharing is encouraged.

#### Program design:

Centers met monthly in the second half of the year to review existing practice and program design to ensure experience guided design and developments were considered by the whole network. Individual meetings were held with each new re-entry Center to discuss initial steps, agree overall program design focused on service delivery and design outreach and training materials. Centers also met to consider practicalities around delivery of post release services and a design process agreed for implementation with additional thought given to developing listening sessions to ensure that services met recipients' needs and avoided a "one size fits all approach". A review of all program materials was begun to update language removing references to terms like "prisoner" and "inmate" and consideration given to providing Spanish language versions or materials tied into MOPC's diversity, equity and inclusion goals. Staff met to consider approaches to developing appropriate evaluation tools to support quality and sustainability of programming.

#### Outreach:

MOPC aimed to identify potential correctional facility partners for each center to partner with by the end of the year. Initial outreach was begun with several new State Department of Correction facilities for which service delivery would be defined by an existing Memorandum of Understanding and County Sheriff Departments across the State currently unserved by the Program. Steps were also taken to identify agencies in local communities who provide services to individuals post-release and several Centers began exploration in their local area. In the early part of the year when existing correctional facilities were closed to visitors and volunteers, MOPC provided monthly newsletters about the program including advice on handling conflict and Centers used this with their existing partners as a way of maintaining contact and making plans for when facilities re-opened.

### Service delivery:

During the year and while facilities were closed, it was still possible to advance pre-release service delivery to existing facilities by ensuring continued access through renewed pre-screening requirements, conducting outreach presentations to staff, attending staff meetings and delivery of materials for circulation. One facility initially allowed remote service delivery which resulted in 11 intakes and 3 mediations, but services were ended due to CMC staff turnover. A second facility provided intakes on 8 cases at the end of the year. Other facilities were unable to offer support for remote services. Remote services can only be offered in exceptional circumstances where access is otherwise prevented because evidence shows that the opportunity for a face to face in person detailed exploration of important issues impacting the release is key to the program's success. Twice yearly evaluation reports to DOC outlining work done under the program were completed by MOPC's research unit.

### **FY21 CMC Programs and Potential Partners (existing partnerships shown in bold)**

Berkshire County Regional Housing Authority – Berkshire and Hampden County Sheriffs

Cape Mediation – Barnstable and Plymouth Sheriffs

Collaborative Resolutions Group – **Hampshire, Franklin and Hampden Sheriffs**

Community Dispute Settlement Center – MCI Concord

Family Services of Central MA – Worcester Sheriff

Middlesex Community College – **Middlesex Sheriff**

Mediation Services of N Central MA – MCI Shirley

Metropolitan Mediation Services – **Suffolk Sheriff**

Martha' Vineyard Mediation Program – Dukes and Bristol Sheriffs, and Old Colony Corrections

MetroWest Mediation Services – **MCI Framingham and S Middlesex Correctional Facility**

North Shore Community Mediation – **Essex Sheriff**

### **Planning for FY22**

Assuming level re-entry funding, MOPC budgeted for just over \$270,000 for re-entry in FY22 that includes funding towards a new re-entry program manager position at MOPC with 26% of funding going to MOPC and 74% for Center infrastructure and capacity building. The Program is planning to look at expanded pre and post release service delivery and to consider how it might expand to include pre-incarceration services through existing CMC infrastructure though with ongoing uncertainty about the pandemic may make progress slow. A long-term program goal is to train and recruit mediators with experience of incarceration to become re-entry mediators and represent their interests on CMC/MOPC advisory boards.

## 9.2 APPENDIX B: YOUTH PROGRAM

### **Youth Conflict Resolution & Restorative Practices Program**

Program Manager, Youth Program, Massachusetts Office of Public Collaboration

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

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

#### **FY 2021 Youth Program Funded Projects**

In FY 2021, MOPC invested \$313,000 in youth-centered programming. Grants were renewed for seven (7) project implementation grants and three (3) development grants, totaling \$133,000. The implementation grants raised more than \$172,000 in matching funds and in-kind donations. In addition, bonus awards of \$18,000 per center were awarded to eight of the existing grantees and two additional community mediation centers to support further development of new and existing youth programming across the Commonwealth.

#### **Project Implementation Grants**

**Martha's Vineyard Mediation Program, Inc., Vineyard Haven (Dukes County) – \$23,000**  
*Island of Young Conflict Resolvers, Martha's Vineyard Charter School, Regional High School, and YMCA*

The center provided a ten-week program on conflict resolution skills and mediation practices for sixth graders at the MV Charter School as a starting point to building up the program into the high school. Existing peer mediators participated in advanced training and youth listening sessions which will continue into FY 2022 to provide further input on programming in the year ahead.

**Metro West Mediation Services, Framingham (Middlesex County) – \$27,000**  
*Peer Mediation Program Support, Advanced Math & Science Academy*

With the postponement of after-school programs in Framingham, which was the focus of previous youth programming, the center adjusted and laid the groundwork for peer mediation programming at the Advanced Science and Math Academy. Peer mediator training and support was provided to build capacity, as well as providing mediation services to school stakeholders.

**Mediation Services of North Central MA, Inc., Fitchburg (Worcester County) – \$33,000**

*Assisting Youth in Resolving Conflict through Education, Coaching, Mentoring and Mediation, with Sizer School and Boys and Girls Clubs of Fitchburg & Leominster*

The center continued the long-time peer mediation program with the Sizer Charter School and youth were trained virtually. The center also continued its partnership with the Boys & Girls Club of Fitchburg and Leominster, being one of only a few agencies permitted access to the Clubs when reopened in January 2021. Peer mediation training was provided to junior staff at the Club to expand programming in FY 2022.

**Middlesex Community College Law Center, Lowell (Middlesex, Essex, Suffolk Counties) – \$33,000**

*Peer Mediation Expansion and Restorative Justice Programming, Lowell Public Schools & Salvation Army*

The center supported peer mediation programming with social media and racial and ethnic relations training with a focus on anti-racism practices. In addition, 85 intakes were conducted for mediation, restorative circles, and conflict coaching and work was completed to train peer mediators in anticipation of fully-in person school in FY 2022. Outreach efforts were undertaken to reach additional partners, and the partnership with the Salvation Army’s “Bridging the Gap” youth diversion program continued.

**Berkshire County Regional Housing Authority Mediation Program, Pittsfield (Berkshire County) - \$38,000**

*Family/School Dispute Resolution Project, Pittsfield Public School District*

The program aims to create a school environment within Pittsfield Public School District that reflects youth empowerment and positive youth development. Restorative circles and mediation services were provided to Reid Middle School, with 10 mediations taking place once school resumed in person in May and June 2021. Plans continued for implementing programs at Conte Elementary and Taconic High School.

**North Shore Community Mediation, Beverly (Essex County) – \$43,000**

*Empowering Youth in Essex County: Peer Mediation and Restorative Circle Training and Support, Amesbury Middle School, Andover High School, Greater Lawrence Technical High School, Methuen High School, Peabody High School, Higgins Middle School, Penn Brook Elementary and Lynn YMCA*

The center provided support to the partner schools as they navigated remote learning and a return to in-person learning, as well as planned for additional peer mediation and restorative circle programming in FY 2022 once schools returned in-person. Discussions were held with Lynn YMCA for a return in FY 2022.

**Collaborative Resolutions Group, Greenfield (Franklin, Hampden, Hampshire Counties) – \$53,000**

*Restorative Practices Program, Franklin Regional Council of Governments & Partnership for Youth*

The center increased school personnel and youth awareness of restorative practices theory, knowledge, and skills, as well as provided access to resource materials to support school-based restorative practices. The existing Learning Community (LC) cohort expanded to nine schools and 40 members. In addition, new partnerships were formed with Berkshire County schools, Restorative Justice Western MA, and consultation and training services were provided to schools and community organizations.

**Project Development Grants**

**Greater Brockton Center for Dispute Resolution, Brockton (Plymouth, Bristol Counties) - \$3,000**

*Conflict Resolution for Children in Day Care and After School Programs with Children's Express Learning Center*

**Cape Mediation, Orleans (Barnstable and Nantucket Counties) - \$18,000 (Bonus Award)**

*Development of Peer Mediation Program at Nauset Regional High School*

**Community Dispute Settlement Center, Cambridge (Middlesex, Norfolk, Suffolk Counties) – \$21,000**

*Got Conflict? Talk It Out – Positive Youth Engagement*

**Family Services of Central Massachusetts Mediation Program, Worcester (Worcester County) - \$3,000**

*Development of youth initiative with Enjoy Life Education and Tahonto High School*

**Metropolitan Mediation Services, Brookline (Norfolk, Suffolk Counties) - \$18,000 (Bonus Award)**

*Development of MMS Youth Conflict Resolution Services*

**Youth Program Learning Community**

In FY2021 MOPC staff launched a Program Learning Community (PLC). Youth staff from the participating centers participate in monthly meetings where progress is shared, challenges are discussed, and new opportunities for youth programming is explored both locally, regionally, and statewide.

**Youth Project Grant Research**

Youth project grants are an opportunity for centers and MOPC to work together in gathering data to inform programming and research and support fundraising. The goals of these projects are twofold: (a) to address youth/community needs through community dispute resolution and

restorative practices to implement long-term solutions to pressing youth-related public problems; and (b) to demonstrate accountability and learning while also conducting advocacy to diversify funding sources to promote long-term sustainability of community mediation centers and their youth-focused initiatives.

FY 2021 posed a variety of challenges to youth programming, as schools and youth-centered organizations struggled during the pandemic. However, the youth program work of CMCs was shown to be supportive of young people during this challenging time and of the institutions which serve them.

Collaborative Resolutions Group (CRG) continued to offer Learning Community sessions for school staff and students, by utilizing Zoom meeting technology. Eighty-four percent (84%) of participants indicated the community sessions on Zoom were “very useful,” and participation doubled between FY 2020 and FY 2021. One learning community participant shared:

“Hearing how other schools are facing similar challenges during the pandemic and remote learning was validating.”

In addition, youth participated in online trainings co-facilitated by CRG staff and three youth trainers. Ninety-three percent (93%) of participants rated the training as “good” or “Excellent.” One student shared:

“We can use restorative practices to increase student leadership and communication skills both inside and out of the classroom and help facilitate the difficult conversations that many students at our school are already pushing us to have, but the students need to “lead the charge.” We need and want our teachers to be supportive and receptive, but I think this needs to be OUR movement.”

Mediation Services of North Central Massachusetts was able to conduct peer mediation training at the Sizer Charter School in Fitchburg which allowed services to remain constant. The effort was reported on by the *Sentinel & Enterprise* in February of 2021. From the article:

“I decided to participate in the Peer Mediation Program because I’m not great at dealing with conflict. I’ve had friends who got on each other’s nerves, and when they did I didn’t know how to help,” said ninth grade student Alessandra Suzzi of Templeton. “My siblings also fight a lot, so I wanted a way to help calm them down and solve whatever problem they were facing. The Peer Mediation Program definitely gave me the tools I needed to defuse any possibly harmful situations and help everyone get along better.”

### **FY 2022 Youth Program Funded Projects**

In FY 2022, MOPC has sustained funding for ten (10) youth program grants totaling \$307,000. This funding has provided CMCs with the ability to sustain or hire at least one part- or full-time youth program staff person to support existing programming and develop additional programming within their service area. Youth staff across the ten participating centers continue to participate in monthly Program Learning Community meetings.