

**COMMUNITY MEDIATION TRENDS AND NEEDS:
*A STUDY OF VIRGINIA AND TEN STATES***

Final Report and Recommendations

August 2001

Prepared For The
Virginia Association For Community Conflict Resolution (VACCR)

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EXECUTIVE SUMMARY

The Virginia Association for Community Conflict Resolution (VACCR), funded by the National Association for Community Mediation (NAFCM), contracted with the Institute for Environmental Negotiation (IEN) at the University of Virginia to conduct a study of community mediation in Virginia for three purposes:

- To document the services, benefits, and funding of community mediation programs throughout the United States;
- To identify services provided by Virginia's community mediation centers; and
- To identify funding options to sustain and strengthen community mediation in Virginia.

Community Mediation

uses trained *volunteers* who reflect the *diversity* of the community to help disputants resolve their conflicts. It provides *early intervention* and *conflict prevention* and offers mediation regardless of ability to pay to ensure services to *all* community members.

This study found a broad base of support and enthusiasm for community mediation programs throughout the nation. Respondents consistently mentioned the effectiveness and commitment of staff members and volunteers, support from courts and legislatures, and measurable results that reduce court dockets and build community capacities.

However, the study also found a strong underlying concern about how community mediation will continue to meet the growing needs of communities. Respondents consistently mentioned that insufficient funding sources and political roadblocks serve as substantial barriers.

KEY FINDINGS:

- **Community mediation centers serve as the backbone of mediation services of all kinds** throughout the nation. They have been the primary training ground for mediators in both private and community sectors and have been the prime innovators in conflict resolution programs for communities. Centers are also the largest providers of mediation services to the working poor and economically disadvantaged.
- **Community mediation will continue to grow** as a compassionate and cost-effective approach to dealing with conflicts and disputes in communities across the United States.
- **States fund mediation programs through a variety of methods** including general appropriations, umbrella agencies, and programmatic spending. However, this funding rarely addresses early intervention and prevention programs.
- **Community mediation centers throughout the nation have become increasingly associated with the courts** over the past 20 years. In fact, most people gain access to mediation through the courts. This association has limited centers' ability to provide early

intervention and prevention programs and stopped many people from accessing the mediation services that they require.

- **There is a strong desire to provide early intervention, pre-court, or non-court related conflict resolution services** to stem the tide of cases flowing into the courts and address the many conflicts that do not involve the judicial system.
- **Non-court related mediation programs represent the best way to provide early-intervention and prevention conflict resolution.** These programs are highly cost-effective and avoid end-of-the-pipeline solutions like the courts.
- **Active community mediation programs provide very real, measurable cost savings** to communities. Some states have measured these cost savings, but in many states (including Virginia), the data remains largely incomplete.

RECOMMENDATIONS

The reduction of community tensions and conflict is a vitally important goal for communities across the United States. Our recommendations reflect the assumption that prevention and early intervention are powerful and effective because they reduce the financial costs of public conflicts and help sustain communities.

Programs / Standards

- **Community-Based Programs:** Virginia should further develop the capacities of community mediation centers to address disputes outside of the courts. Innovative community mediation programs require additional funding. These programs should have measurable outcomes and target specific community goals, such as promoting civil society or reducing violence.
- **Standards of Practice For Community Mediation:** Virginia's nine community mediation centers should develop a new, uniform "Standards of Practice" to ensure excellence and to gain visibility at the judicial and legislative levels. These standards would provide community users with assurances of mediator conduct and quality distinct from the court mediation standards promulgated by the Virginia Supreme Court. These standards would address community mediation's unique needs, conditions and challenges.

Program Development

- **Long-term Funding:** Stable, long-term sources of funding for early-intervention *and* conflict prevention programs in Virginia should be developed. Current funding for court-referred mediation does not cover the full cost to community mediation centers of providing such services. Court-referred mediation provides an important service. However, it impinges on centers' abilities to provide other innovative services in prevention and early intervention.
- **State-wide Coverage:** New community mediation programs should be started in underserved localities to ensure the provision of mediation services throughout Virginia. VACCR should take the lead in collaboration with others, such as the Virginia Mediation

Network (VMN) and the Office of the Executive Secretary (OES) of the Supreme Court, to coordinate and extend coverage.

- **Legislative Funding Mechanisms:** Virginia should evaluate legislative funding mechanisms from other states. Possible models include Maryland and North Carolina's funding programs, filing fee legislation, Indiana's fee-for-services statute, and New York's prescribed funding commitments.
- **Central Funding Organization:** VACCR should be considered as an entity that could receive state funding and disburse funds to centers. In Maryland and Hawaii, an umbrella organization coordinates centers' funding requests. These organizations enable community mediation centers to work together and raise their visibility.

Public Education and Outreach

- **Benefits of Mediation and Early Intervention:** Communities should be educated about the benefits of mediation and the specific value of early intervention. The availability of free mediation for those who can't pay also needs to be publicized more widely.
- **Training:** Key community individuals and groups need to be provided with low-cost or free conflict management training. This training should focus specifically on getting people to resolve their problems with third-party assistance before the problems escalate to the level of violence or legal disputes.

Cost Savings Evaluation and Measures

- **Measurable Benefits:** Standardized methods should be developed for measuring the benefits and cost savings provided by Virginia's community mediation centers. This data would enable communities, state agencies, and private foundations to better understand, in concrete financial terms, the value of early intervention programs.
- **Value-Added Benefits:** Additional methods should be developed to measure the full range of benefits provided by community mediation. A neighborhood's renewed sense of community, a child's improved performance at school, a resident's new-found sense of safety and security -- these are all examples of the ways that community mediation can help sustainable communities and civil society.

CONCLUSIONS

Virginia has the opportunity to serve as a national leader in the community mediation field by funding early intervention and conflict prevention mediation. While court-related program funding and priorities remain important, and will continue to be a constant presence in the community, community mediation centers must increasingly provide early intervention and prevention solutions in order to most effectively serve the needs of their communities. With new innovations and quality community mediation programs, Virginia's towns and counties will have greater opportunities to effectively prevent and manage conflict, build new community-wide strengths, and develop into the flexible, sustainable communities that they envision.

STUDY FINDINGS: *INTRODUCTION*

History

Community mediation first developed as a formal field of practice in the United States in the late 1960s, in response to societal conflicts and to the need to reform the nation's justice system. As Scott Bradley and Melinda Smith note, "community conciliation mechanisms were viewed as an opportunity for citizens to participate in the prevention of and early intervention in conflicts as an alternative to institutional mechanisms."¹ Communities searching for constructive, restorative ways to resolve conflicts required additional resources and options. Community mediation developed as a largely grassroots movement outside of the courts to meet both of these needs, emphasizing self-determination, community empowerment, and the democratization of justice.

Today, community mediation centers and programs serve individuals, families, and communities across the country. Community mediation encompasses:

- Neighborhood Disputes
- Community Disputes
- Public Policy and Land Use Disputes
- Family/Custody Disputes
- Juvenile and School Mediation
- Victim/Offender Mediation
- Court/Legal System Referrals
- Parent/Child Conflicts
- School Conflicts (Truancy and Gang Mediation)

Community mediation centers have also developed a wide range of innovative programs that tackle issues like race relations, AIDS, public policy, prison, boycotts, migrant workers, agriculture, clean air/water rights, farm grazing rights, employment, religious disputes, community policing, and business/corporate disputes.

Over the past thirty years, community mediation has grown substantially. As the 1997 U.S. Department of Justice Report *Community Mediation Programs: Developments and Challenges* states, "community mediation programs have significantly expanded the range of types of disputes that they address and have also assisted schools, businesses, and other organizations to develop in-house dispute resolution mechanisms. In addition, they have begun to encourage

¹ Scott Bradley and Melinda Smith, "Community Mediation: Reflections on a Quarter Century of Practice," *Mediation Quarterly* 17 (Summer 2000): 315-320.

ways to avoid disputes in the first place.”² Ten years ago, for example, it is estimated that there were approximately 150 community mediation centers. In the United States in 2001, according to statistics from the National Association for Community Mediation (NAFCM), there are:

- 550 community mediation programs;
- 19,500 active volunteer community mediators;
- 76,000 citizens trained by community mediation programs;
- 97,500 disputes (cases) referred on an annual basis; and
- 45,500 disputes (cases) mediated on an annual basis.

The typical (median) community mediation program has 1.5 staff members, 30 active mediators, operates on a \$40,000 annual budget, receives 150 referrals per year and mediates 70 cases. Virginia’s nine community mediation centers far exceed these numbers – the centers, for example, averaged 252 negotiated cases per center in 1999. Also in 1999, the centers negotiated more than 2,000 cases, provided more than 15,000 hours of client services, and provided skills training for over 2,000 people.

Some community mediation programs focus predominantly on court-referred cases. Other programs rely on a range of funding sources like grants and membership fees to provide early intervention and prevention mediation services.

Definitions

The National Association for Community Mediation (NAFCM) defines mediation as follows:

Mediation is a process of dispute resolution in which one or more impartial third parties intervenes in a conflict with the consent of the disputants and assists them in negotiating a consensual, informal agreement. Mediators provide a neutral place for people involved in a conflict to talk freely and openly. The decision-making authority rests with the parties themselves.

Through the mediation process, citizens learn how to improve their conflict resolution and communication skills so that the next time they encounter a problem, they can solve it on their own. Many of those involved in community mediation believe that the process empowers people to improve their social interaction.

Community Mediation is characterized by (1) the use of trained community volunteers; (2) sponsorship by a private non-profit or public agency with a governing/advisory board; (3) the use of mediators who represent the diversity of the community served; (4) the provision of direct access of mediation to the public;

² Daniel McGillis, *Community Mediation Programs: Developments and Challenges* (Washington, D.C.: United States Department of Justice, 1997): 2.

(5) the provision of services to the public regardless of the ability to pay; (6) the promotion of collaborative community relationships; (7) the encouragement of public awareness; (8) intervention during the early stages of the conflict; and (9) the provision of an alternative to the judicial system at any stage of the conflict.

Purpose of Study

In Virginia, there is a clear need to establish additional community mediation centers and to provide additional resources to sustain the existing centers to ensure that all state residents have access to a range of mediation services. Specifically, Virginia has the opportunity to serve as a national leader in the community mediation field by funding non-court related mediation programs that emphasize early-intervention and conflict prevention. End-of-the-pipeline solutions, in contrast, do nothing to stop violence, stem the tide of cases flowing *into* the courts, or address the many conflicts that do *not* involve legal issues.

The Virginia Association for Conflict Resolution (VACCR), funded by the National Association for Community Mediation (NAFCM), contracted with the Institute for Environmental Negotiation (IEN) at the University of Virginia to conduct a study of community mediation in Virginia for three purposes:

- To document the services, benefits, and funding of community mediation programs throughout the United States;
- To identify services provided by Virginia's community mediation centers; and
- To identify funding options to sustain and strengthen community mediation in Virginia.

The IEN conducted an initial survey of the 50 states and the District of Columbia to obtain basic information about each state's community mediation centers and programs. VACCR then reviewed this information and selected ten states for more in-depth study. In this second phase, IEN conducted telephone interviews and a more in-depth written survey, examined program documents and data, and obtained information via the Internet. This survey was intended to identify existing information resources and the range of possibilities that could help develop community mediation-related policy, funding or programmatic initiatives in Virginia.

Scope of Study

This study focuses on four critical elements that define the development and diversity of community mediation programs: funding models, innovative services, legislation, and coalitions. The study sought a wide range of different models for comparison and evaluation. The IEN staff contacted a wide range of individuals involved with community mediation, including attorney mediators and non-attorney mediators, center and coalition administrators, local and state public sector employees, advocates, and academics.

The study also sought to document the relationship between community mediation and the justice system. The study documents how centers with close ties to their local courts function and how centers with substantial non-court related caseloads fund and develop their programs. Recent studies have concluded that close relations between community mediation and the justice system raise a number of concerns regarding the integrity and viability of mediation.³

The impact of private mediation and forms of mediation other than community mediation were beyond the scope of this study.

Values

Core values identified by IEN as integral to this study are:

- Mediation empowers individuals and enables communities to shift from conflict situations to collaborative, problem-solving situations.
- Early-intervention and prevention conflict resolution complements court-related mediation programs. Both approaches reduce costs and help empower individuals and communities to build capacity and defuse conflicts.
- Adequate resources, fair access for all community residents, and high quality services are vital components of community mediation programs.

Community Mediation in the Ten States Surveyed

This study analyzed community mediation funding models, innovative services, legislation, and coalitions in the following ten states: California, Florida, Hawaii, Indiana, Maryland, Michigan, New York, North Carolina, Oregon, and Texas.

The study found both substantial similarities and dissimilarities between community mediation programs and centers in these states. Some of the states surveyed have been very active in supporting community mediation statewide. For example, North Carolina's 26 community mediation centers and Maryland's ten centers receive extensive state funding in addition to seeking financial support from diverse additional sources. The New York state legislature directly funds community mediation centers that serve all 62 counties in the state. New York community mediation centers received over 44,000 case referrals in the 1996 fiscal year involving over 100,000 people. Similarly, Michigan has provided funding to twenty-nine programs in the state.

Although cost savings are difficult to document, some studies show that community mediation can result in substantial cost savings for state governments. In Michigan, for example,

³ Timothy Hedeem and Patrick G. Coy, "Community Mediation and the Court System: The Ties That Bind," *Mediation Quarterly* 17 (Summer 2000): 351-367.

Raymond Shonholtz, "Community Mediation Centers: Renewing the Civic Mission for the Twenty-First Century," *Mediation Quarterly* 17 (Summer 2000): 331-340.

the Office of Special Education estimated that, in FY 1999-2000 alone, community mediation services would save the state \$897,700.94 in averted court hearings and expenses.

NAFCM statistics gathered from programs throughout the country demonstrate that 85 percent of mediations result in agreements between the disputants. Similarly, studies show that disputants uphold these agreements 90 percent of the time. As a testament to disputants' high satisfaction with community mediation, 95 percent of participants indicate that they would use mediation again if a similar problem were to arise in the future.

Community Mediation in Virginia

In 1982, Virginia's first non-profit mediation organization, Harrisonburg's Community Mediation Center, was created. Today, there are nine non-profit community mediation centers across the Commonwealth. In 2001, to maximize resource sharing and to heighten the visibility of community mediation in Virginia's communities, the centers joined together to form the Virginia Association for Community Conflict Resolution (VACCR). Together, these centers provide education and conflict resolution services to increase the capacities of families, individuals, youth, organizations and neighborhoods to effectively resolve conflicts themselves without relying on government to provide a solution or remedy.

These centers and their programs save time and money as well as relationships. They enable community members to pursue a range of decision-making strategies, which eases the burden on our court system. They also incorporate a broad range of neighborhood, community, and workplace perspectives to help parties reach resolution.

Support from the Virginia Supreme Court, the state judiciary's Futures Commission, and the Legislature has been critically important to the community mediation centers' successful development and expansion. In FY 2000, for example, the state legislature provided \$458,785 to fund court-referred mediation contracts. Since 1994, funding for these court-referred contracts has increased, on average, by 28 percent annually. However, because the court contracts were expanded to include private practitioners, court contract funding for community mediation centers between 1994 and 2000 has, for some, increased by less than 10% annually, while for others it has stayed at roughly the same levels.

However, Virginia's nine community mediation centers need substantial funding and legislative assistance to maintain their early intervention and conflict prevention mediation services. Funding remains a critical issue for community mediation programs across the country. Even in states like Maryland and North Carolina that provide extensive community mediation program funding, centers and coalitions must rely heavily on outside funding sources like grants, member fees, and fee-for-service provisions to sustain their programs. While funding for court-referred mediation remains the predominant form of funding for mediation programs, it remains a reactive solution. Prevention efforts and early access to mediation services in communities and workplaces are the first line of defense for reducing and mitigating conflicts in our society. Their importance must be recognized.

Case Data for Virginia's Community Mediation Centers, 1998-1999

Mediation Services	
Cases	2267
Hours	6297
Adults Served	4292
Children Benefited	2699
Skills Training	
People Trained	2038
Client Services	
Hours	15,097
Educational Programs	
People Served	4655
Volunteer Services	
Hours	13,392
Budget	\$1,264,395

This study documents that Virginia's nine mediation centers provide a range of excellent court and non-court related services that compare favorably with any of their counterparts in the nation. The study also looks at innovative mediation programs in other states and considers their relevance for use in the Commonwealth. Finally, the study examines the provision of early intervention and conflict prevention services by Virginia's community mediation centers. The study concludes that additional resources are urgently required to bolster the provision of non-court related mediation services.

STUDY FINDINGS: *STATES SURVEY*

This section of the study provides detailed information about how community mediation centers and programs function in Virginia and ten states in 2001. The ten states surveyed are: California, Florida, Hawaii, Indiana, Maryland, Michigan, New York, North Carolina, Oregon, and Texas.

Following an initial review of community mediation in all fifty states, these ten states were selected for further analysis because of the excellence or uniqueness of their centers and programs. This section highlights four areas: non-court related mediation, innovative programs, coalitions and funding. Each of these topics are reviewed and compared with the development of community mediation in the Commonwealth of Virginia.

The study found both substantial similarities and dissimilarities between community mediation programs and centers in different states. States like Maryland, New York, North Carolina and Hawaii, for example, have state-wide established coalitions that lobby state court and legislative systems for funding and increased visibility. Most states' community mediation centers also maintain close ties with their respective court systems, often deriving more than 50 percent of their case referrals from this single source. In contrast, however, funding mechanisms for community mediation vary broadly between states. For example, Maryland's legislature funds its community mediation centers and has not yet established any legislative requirements, while North Carolina funds its community mediation centers through a generous discretionary funding program. California and Indiana provide no funding but have enabling legislation that supports the establishment of community mediation centers. Texas and Florida's legislation provides for community mediation programs at the local level via court filing fees.

A primary research goal for this study was to interview as wide a range as possible of individuals involved with community mediation. We spoke with attorney mediators and non-attorney mediators, center and coalition administrators, local and state public sector employees, advocates, and academics. Opinions ranged widely on issues like the benefits and disadvantages of court versus non-court-related mediation. Virtually all respondents, however, spoke passionately about their involvement with community mediation. Many respondents have been working in the field for several decades and remain dedicated and excited about the field's established strengths and progressive growth. Several served as valuable research guides.

The strengths of community mediation consistently mentioned by the respondents include the power and commitment of staff members and volunteers, increasing support from the courts and legislature, the establishment of training requirements for mediators, and measurable results that not only reduce court dockets but also build community capacities and integrate disparate local interests. The difficulties consistently mentioned include insufficient funding, frustration with political processes, difficulties maintaining program success and difficulties surmounting geographic limitations.

Below, the study findings introduce several critically important components of community mediation: funding models, innovative services, legislation, and coalitions.

Finding #1: Community mediation programs in most states rely substantially on court systems for case referrals.

Community mediation centers throughout the nation have become increasingly associated with the courts over the past 15 to 20 years. The majority of the states reviewed in this study reported that they rely heavily on the courts for case referrals. Many centers' efforts are now focused on mediating cases that have already reached the courts. Centers in North Carolina, Hawaii, Michigan, Texas and Oregon each derive at least 50 percent of their cases from court referrals. Centers in New York derive approximately 46 percent of their cases from court referrals.

Case Study: Community Mediation and the Courts in Oregon

There are 32 community dispute resolution centers (CDRCs) in Oregon providing mediation services in 23 counties. Twenty-seven of these centers receive funding from the Oregon Dispute Resolution Commission (ODRC). Established in 1989, the ODRC encourages development of mediation in court-referred cases and works to create linkages between the courts and the CDRCs, among other services. The ODRC's funding comes from a civil court filing fee surcharge authorized by state legislation ORS 36.100-210.

CDRCs in Oregon accordingly rely heavily on the courts for case referrals. In 1999-2000, for example, 62.3 percent of the CDRCs' 5,712 new cases were court-related. By category, 4.9 percent of these cases came from the District Attorney's Office, 22.2 percent from Juvenile Justice, 9.2 percent from Law Enforcement, 3.3 percent from Code Enforcement, 16.3 percent from Small Claims Court, and 6.4 percent from Other Courts.

Court systems allocate funds for these case referrals in two ways, using either legislature-provided funding or court-generated revenues from case filing fees. In turn, centers are annually required to document the number of cases referred, the number of cases resolved and the number of cases returned to the courts, among other criteria. *Court related funding in these states cannot be used to fund non-court related mediation.*

Researchers Timothy Hedeem and Patrick Coy have noted that mediation provides several benefits for courts, including alleviating court congestion, reducing costs, and bringing about resolution in a timely manner. However, they also note that, while these benefits are valuable, "the same court systems may also unduly influence the field's further development and in some instances even compromise its integrity."⁴

⁴ Timothy Hedeem and Patrick G. Coy, "Community Mediation and the Court System: The Ties That Bind," *Mediation Quarterly* 17 (Summer 2000): 364.

Examining the current relationship between community mediation and the justice system, Hedeem and Coy note six concerns regarding mediation's integrity and viability ⁵:

- Dependence for funding on the favor and support of the justice system;
- Loss of autonomy to turn back inappropriate court referrals;
- Potential for coerced participation in mediation;
- Potential to be found at fault is perceived to be faced by primarily one party;
- Misunderstanding of the legal status or basis of mediation processes and outcomes; and
- Loss of community focus.

Respondents for this study repeatedly emphasized that court related funding remains the only stable, consistent funding source for most community mediation centers. *However, all respondents agreed that current court related case funding levels are insufficient to fund the court-related programs because funding does not cover the case management costs.* Further, court administrative requirements and regulations limit the capacity of centers to develop their non-court related mediation services.

Finding #2: Early intervention and prevention mediation programs receive virtually no state-level funding and rely on donations, grants, fee-for-service and federal funds for special programs.

While many respondents felt that state funding of court cases has enabled their centers and programs to establish an initial footing in many communities, it appears that many centers are now taking firm steps to expand their non-court related services as well. The programs most frequently mentioned include school- and workplace-based conflict resolution programs, special education and disability programs, fee-for-service programs, and dispute resolution education programs.

None of the states reviewed explicitly provide direct funding for non-court related mediation services. As the *Community Mediation Programs Report* states, government agencies are "less likely to sponsor a community mediation center that processes a diverse array of conflicts."⁶ However, North Carolina's legislature provides discretionary funding that centers can spend on any program. Indiana offers another model – its six centers offer only non-court related mediation and independently develop and fund these programs. Many of the other states that maintain strong non-court related programs do so through the use of federal funds for programs such as Special Education mediation and Americans with Disabilities Act (ADA) mediation. Michigan's use of federal funding for mediation services is the most extensive example among the states surveyed (see pg. 19).

⁵ Ibid: 356-362.

⁶ Daniel McGillis, *Community Mediation Programs: Developments and Challenges* (Washington, D.C.: United States Department of Justice, 1997): 86.

Case Study: North Carolina's Discretionary Funding System

During the fiscal year 1999-2000, state appropriations for North Carolina's 26 community mediation centers totaled \$1,297,494, while the centers relied on outside funding for an additional \$3,035,725. The North Carolina legislature has appropriated funds to support community mediation centers since 1979, when the first center formed in Orange County. The legislature formalized this funding in 1999 with the ratification of House Bill 924.

House Bill 924 is both a strong public endorsement of community mediation and a powerful funding mechanism. While the Bill emphasizes the importance of the relationship between the courts and community mediation centers, it also provides funding for referrals from "public entities." Bill Section 7A-38.5 states:

- a) The General Assembly finds that it is in the public interest to encourage the establishment of community mediation centers, also known as dispute settlement centers, to support the work of these centers in facilitating communication, understanding, reconciliation, and settlement of conflicts in communities, courts, and schools, and to promote the widest possible use of these centers by the courts and law enforcement officials.
- b) Community mediation centers, functioning as or within nonprofit organizations and local government entities, may receive referrals from courts, law enforcement agencies, *and other public entities* to facilitate communication, understanding, reconciliation, and settlement of conflicts.

The North Carolina legislature has attached minimal requirements to the funding appropriations. The legislature requires outside funding sources for centers, but otherwise the funding is discretionary. There is no set formula for distributing funds between the centers. According to Scott Bradley, Executive Director of the Mediation Network of North Carolina (MNNC), the funding allocation derives from a combination of history and politics rather than any specific formula or criteria.

While North Carolina's legislation does not explicitly fund non-court related mediation programs, its discretionary funding model enables the state's centers to access substantial, flexible financial resources. **As a result, North Carolina's community mediation network is one of the nation's strongest.** In 1999-2000, for example, state centers served 58,939 clients and managed 16,698 cases, 79% of which were resolved.

Non-court Related Mediation in Virginia

Non-court related community mediation programs in Virginia reflect many of these trends and concerns. There is a perception in Virginia and other states that community mediation programs have not reached their full potential, partly *because* of their association with the courts. Court-referred cases may now provide a stable long-term funding resource for community mediation programs throughout the nation, but this end-of-the-pipeline solution does nothing to stem the tide of cases flowing *into* the courts.

With a strong court-supported Alternative Dispute Resolution (ADR) system, community mediation in Virginia continues to struggle to maintain itself as an independent field. As in many states, community mediation centers in Virginia must rely largely on court related mediation to fund and maintain their operations. Despite this limitation, Virginia's mediation centers have initiated innovative non-court related community mediation programs that range from prison mediation and school truancy mediation to low-income housing mediation for landlord-tenants. There is also a strong desire to expand programs that provide early intervention, pre-court, or non-court related conflict resolution to stem the tide of cases flowing into the police stations and the courts.

Finding #3: There are several different types of legislation used by states to fund community mediation centers and programs.

Funding remains a central issue for both community mediation programs and the coalitions that exist to support them in each of the ten states reviewed in this study. As the *Community Mediation Programs* Report states, “in addition to being too low, program funding also tends to be precarious.”⁷

Direct Legislative Funding: Some states provide direct legislative funding to ensure long-term funding stability for their mediation centers. This study found that while many states have passed supportive mediation legislation, *only New York has passed legislation that directly mandates long-term funding for community mediation*. Indiana passed legislation enabling direct funding of community mediation in 1998, but the non-binding statute has never been funded. Nine of the ten states reviewed currently fund community mediation programs either through discretionary funding or court case referrals. Indiana was the only state in the study whose centers do not receive any court related monies.

Filing Fees: The most common funding system remains filing fee legislation, which is in place in California, Florida, Michigan, Oregon, and Texas. This legislation requires no additional state funding, but permits localities to choose how to allocate the funds generated from court filing fees. In California and Texas, the fee can range as high as \$8 per case. In Michigan, the fee cannot surpass \$2. State legislation in Hawaii enables the Mediation Centers of Hawaii (MCH) umbrella organization to serve as the fund allocation and oversight agency for

⁷ Daniel McGillis, *Community Mediation Programs: Developments and Challenges* (Washington, D.C.: United States Department of Justice, 1997): 87.

the state. In return, the legislation requires that MCH provide annual reports and fulfill other criteria.

Fees and Grants: Even in states like Maryland and North Carolina that provide extensive community mediation program funding, centers and coalitions rely heavily on outside funding sources like grants, member fees, and fee-for-services to sustain their programs. In North Carolina, for example, the 26 mediation centers received \$1,297,494 in state appropriations in 1999-2000 but still relied on outside funding sources for an additional \$3,035,725. Indeed, most states' legislation stipulates that outside funds must constitute a certain percentage of a program's budget. In Hawaii, for example, centers must generate 15 percent of their annual budget from non-state sources. In contrast, North Carolina's appropriations legislation provides a sliding funding scale for centers. Established centers must derive at least 50 percent of their annual budgets from non-state sources. Newer centers like the Mediation Center of Eastern Carolina must derive at least 20 percent of their budgets from non-state sources.

The chart below illustrates mediation centers' diverse funding sources.

Total local revenue sources for dispute resolution centers in New York in 1998-99, compiled by the Community Dispute Resolution Centers Program (CDRCP)

Revenue Sources	Local Revenue	Funding Percent
Municipal Funding	\$ 1,195,737	27.13%
State Funding	\$ 494,452	11.22%
DSS Funding	\$ 420,817	9.55%
Youth Bureau	\$ 288,998	6.56%
Other Public Revenue	\$ 782	0.02%
Comm. Devel. Block Grants	\$ 16,500	0.37%
United Way	\$ 202,853	4.60%
Donations	\$ 151,505	3.44%
School Districts	\$ 179,999	4.08%
Fees for Services	\$ 466,978	10.60%
IOLA	\$ 46,957	1.07%
Sponsoring Agency	\$ 127,962	2.90%
In-Kind	\$ 117,189	2.66%
UCS Dist. Admin. Office	\$ 577,075	13.09%
Other	\$ 119,111	2.70%
Total Local Revenue:	\$ 4,406,915	100.00%

Respondents consistently cited funding as both a primary concern and a principal headache. Grant funding can vary substantially from year to year, while most programs remain reluctant to develop fee-for-service programs and coalitions remain reluctant to overburden their member centers with administrative fees.

Partnerships: One principal answer has been for programs to look at not just funding sources, but to also seek out public and private partnerships that do not necessarily involve the transfer of any funds. Combining services and strengths has enabled centers both to sustain their existing programs and, in some cases, even reach out to new audiences and raise the visibility of community mediation in the larger community. Many centers and coalitions also continue to lobby their state courts and legislature for additional funds.

Legislation in Virginia

There is currently no direct legislative funding of community mediation centers in Virginia, but the courts do provide funds for court-related mediation cases from a General Assembly allocation. These funds have been available since 1994 and have increased over time. In FY 2000-01, these funds totaled \$459,785. Both private practitioners and nonprofit centers may apply for the funding grants. In FY 2000-01, private mediators received 54 percent of the contract monies and community mediation centers received the remaining 46 percent. A spokesman for the Office of the Executive Secretary (OES) of the Virginia Supreme Court noted that, historically, private mediators and community mediation centers have tended to evenly share the contract monies.

Virginia currently does not have a filing fee statute that serves as a mediation funding mechanism. There is no filing fee statute in Virginia because, according to a spokesman from the Supreme Court, the state has a unique philosophy that “because judges are free, mediators should be free as well.” As a result, the Office of the Supreme Court seeks money from the General Assembly to offset its mediation costs. This money, however, does not support administrative, case management or program development costs.

Virginia’s community mediation centers thus share a similar position with centers in other states – they must rely on a range of funding sources, including grants, member fees, and fee-for-services to sustain their programs. Without any state funding for their non-court related programs, Virginia’s community mediation centers accordingly struggle to offer the full range of mediation services required by Virginia’s diverse communities.

Finding #4: Innovative community mediation services exist across the United States.

Three case studies illustrate how several new community mediation programs are serving their communities in innovative ways. Each study reflects program innovation at either the local, state, or federal level. The local-level example was initiated by one community in Indiana and has now been adopted by two other counties in the state. The state-level example, established as a pilot program in Texas, was funded by a state appropriation. The federal-level example in Michigan illustrates the range of available federal funding sources.

Local-Level

Indiana: *The J-SHOP Program: A Restorative Approach to Juvenile Shoplifting*

Indiana's J-SHOP program, developed by the Education for Conflict Resolution (ECR) community mediation center, provides an opportunity for youth with shoplifting offenses to redeem themselves in an effective way using accountability, education, redirection, and healing. The locally-funded program, which lasts 4-6 weeks, works with eight to 15 youth (ages 10-17) each month to create an alternative to prosecution in the judicial system. The program provides the youth offenders with a confidential community-based structure in which they learn to accept responsibility for criminal actions, learn prevention strategies, and establish constructive personal goals. The program represents a cooperative effort between ECR, the Indiana Department of Probation, and youth offenders and their families.

Started in 2001 in the Huntington ECR Office, the Kosciusko and Wabash County ECR offices now also house the J-SHOP program. The program hopes to serve 100-120 youth offenders and their parents per year. Annual program costs are only \$3500.00, which are underwritten by a \$50.00 charge for each program participant. The program director hopes to use grant funding to underwrite the program costs in the future.

The J-SHOP program consists of an intensive day-long workshop and three follow-up meetings. At the workshop, the youth offenders are paired with a mentor to help them carry out objectives and keep them accountable for 30 days. The day-long workshop begins with an initial meeting between the mentors and the youth offenders and their families. At this meeting, the mentors introduce the program's goals and ground rules, describe the role of the mentors, listen to the youth and parents' perspective on the situation, and prepare the youth for upcoming assignments and responsibilities. Following the workshop, the youth offender must also attend three follow-up meetings.

As its recent successes and expansion indicate, the J-SHOP program provides a range of community benefits. At the most immediate level, the program helps youth offenders to address personal problems and accept responsibility for and learn from their actions. At a broader level, the program helps improve family communication, provides support to youth for regular school attendance and performance, and brings individuals and organizations together to benefit the community. Finally, from a public services perspective, the program helps reduce crime and its associated costs and reduces the number of pending court cases in Indiana.

The J-SHOP program represents an outstanding example of how community mediation centers can provide preventive services that yield immediate results and provide long-lasting benefits to a community and its families and children. The low-cost service addresses the needs of both communities and at-risk populations, bringing both together to discover and explore shared interests. The J-SHOP program reduces crime levels and court costs, but it also makes a significant difference in the lives of local youth and communities in Indiana.

State-Level

Texas: *The Circle of Justice Program*

Community mediation efforts also function exceptionally well within state-level restorative and community justice programs. In 1998, the District Attorney's Office in Austin, Texas funded a pilot Circle of Justice program modeled on Native American precedents in the Yukon and Minnesota using an appropriation from the state legislature. Since then, the program has grown steadily and has now screened 70 cases, 10 percent of which are typically approved by the screening panel for the Circle of Justice itself. The program currently averages a case approximately every 45 days. Working in tandem with community members and law enforcement officials, offenders generate creative solutions that emphasize personal accountability within the local community context. Restorative justice models aim to repair, to the greatest extent possible, crime's effect on victims and their communities.

The term Circle of Justice refers to the "circle" of people directly involved with resolving a case within the restorative justice framework. In addition to the offender and the victim, this circle also typically includes family members, community and law enforcement representatives, attorneys, the prosecutor, and relevant service providers like substance abuse or counseling organizations.

In Austin's program, the District Attorney's Office first determines, via a screening panel, the cases that qualify for the Circle of Justice program. The circle itself involves all parties. In the first round, the facilitator introduces the proceedings and then each circle member introduces themselves and their role in the proceedings. The law enforcement representative, for example, might read the offense report. The facilitator then asks the offender to talk about his/her motivations and the effects of his/her actions. To complete the first circle, the victim then responds to the offender's comments, creating a dialogue between the two parties. After the first circle round, the second circle round begins. The second circle's goal is to consider concrete ways to hold the offender accountable to the state justice system *and* to the local community. Following the second circle, all involved parties finalize the offender's program of future activities.

Austin's Circle of Justice program thus redefines crime as an injury to the victim and the community rather than an affront to the power of authorities. The program is unique in Texas. In the future, the District Attorney's Office hopes the Circle of Justice will become an option for all communities seeking to lower crime rates in Texas.

As with other community mediation programs across the United States, the Austin's Circle of Justice Program emphasizes the strengthening and rehabilitation of individuals and their communities by linking the two in direct dialogue. Whether sponsored by state agencies or community mediation centers, these programs provide individuals and their families with practical tools to change behavior patterns and foster positive change and growth. The Circle of Justice program represents a cutting-edge community mediation approach that links prevention and rehabilitation efforts together over the long-term to benefit entire communities, one individual at a time.

Federal-Level

Michigan: *Special Education, ADA, and Agricultural Mediation Programs*

In 1988, the Michigan state legislature created the Community Dispute Resolution Program (CDRP), which funds court-related mediation services provided by Michigan's community mediation centers. Three of the CDRP programs, focusing on special education, the Americans with Disabilities Act (ADA), and agricultural mediation, receive substantial funding from the federal government. CDRP programs currently assist over 10,000 Michigan residents every year. The programs' 70 percent success rate indicates that mediation can work in a range of contexts and successfully help resolve complex issues. Finally, Michigan's community mediation centers successfully integrate local, state and federal funding sources, providing a national model of excellence.

The Michigan Special Education Mediation Program (MSEMP)

Conflicts between parents of students with disabilities and school personnel over the best approach to a child's education can often prove extremely challenging. Michigan's Special Education Mediation Program (MSEMP) changes these dynamics completely, offering dispute mediation services through Michigan's community mediation centers. The program can help resolve special education disputes over issues like student eligibility for special education programs and services and student evaluation. These preventive mediation services are confidential, voluntary, and quick and cost-effective. The MSEMP program helps maintain strong ties between parents and their children's schools and keeps these conflicts from progressing into the court system.

Michigan Mediation Services and the Americans with Disabilities Act (ADA)

Disputes over the requirements of the Americans with Disabilities Act (ADA) can vary enormously. Since 1988, the ADA mediation program, provided by Michigan's network of community mediation centers, enables businesses and organizations to engage in an ongoing dialogue. By resolving ADA complaints through mediation, organizations can determine the best ways to comply with a given situation and the needs of the protected person and to assess the resources needed to ensure this compliance. Organizations can also access technical experts through the program.

The Michigan Agricultural Mediation Program

Through the Michigan Agricultural Mediation Program (MAMP) program, Michigan's mediation centers bring together producers, migrant farmworkers, corporations, farmers and neighbors involved in land use disputes. The centers provide comprehensive statewide geographic coverage, ensuring that state residents and agricultural interests have an alternative means to address and resolve conflicts. Funded substantially by federal grants, the program illustrates that community mediation can equally serve the needs of individuals and organizations, bringing disparate perspectives together to consider shared needs and to work towards a balanced resolution of the issues.

Innovative Community Mediation Programs in Virginia

This study has found that Virginia's nine community mediation centers, despite limited funding for early intervention and conflict prevention programs, are nationally at the forefront in developing new services to creatively meet the mediation and capacity-building needs of individuals, communities, and businesses. The list below describes these innovative programs, focusing on restorative justice initiatives, student peer mediation programs, youth-targeted mediation programs, community capacity-building programs and general programs. The list, of course, represents only a partial sampling of the mediation and training services provided by Virginia's community mediation centers.

Restorative Justice Initiatives (RJI):

- **The Restorative Justice – Accountability Conferencing Program:** This program works with youth offenders and their families and the victims of youth crime. Program referrals come from law enforcement, schools, the general public and the business community.
- **The Inmate Peer Mediation Program:** This program, based at the Fluvanna Women's Prison, provides inmates with conflict resolution training. There is only one other similar program in the United States.
- **Victim Offender Conferencing (VOC):** VOC is a voluntary process that allows individuals affected by a crime to actively participate in dealing with the crime's consequences. Victims have the opportunity to talk about their experiences. Offenders have the opportunity to understand their victim's perspective and to help create a plan for their own future responsibilities.
- **The Restorative Discipline Program:** This school-based program provides a safe forum to help students, administrators, partners and teachers deal with harmful incidents. The program defines accountability as understanding the effects of a person's actions and focuses on effective problem-solving strategies.

Student Peer Mediation Programs:

- **The Peer Mediation Program:** This program trains elementary, middle school, and high school students in mediation and conflict resolution skills. Students learn how to help other students resolve their disputes peacefully and quickly.
- **The "Our Peer" Mediation Program:** This program seeks to reduce violence and create safer school environments by training students ages 9-18 to assist their fellow students in resolving everyday disputes.
- **The "Let's Talk" Program:** This program is site-based at community housing youth centers and partners the local Housing Authority with the Boys & Girls Club and the local community mediation center. Youth are trained in conflict resolution and

mediation skills and the program provides incentives and a structure for them to assist their peers in resolving conflicts. The local United Way Community Investment Fund supports the program.

Youth-Targeted Mediation Programs:

- **The “Youth at Risk” Program:** Launched on July 1, 2001, this program partners one of Virginia’s community mediation centers with the Norfolk Marine Institute (NMI). The program provides conflict resolution skills training for local youth with prior JDR court experience. Funded by a grant from the Virginian-Pilot newspaper, the conflict resolution and mediation program is a new addition to NMI’s intensive 6-month skill building and leadership development program.
- **Conflict Resolution Training for Alternative Schools:** This program works with a local alternative school to better understand the types of conflicts that students experience and how they resolve them. The program follows a curriculum based on extensive student input to help aggressive students cope with conflict and solve problems appropriately.
- **The “Family Conferencing” Program:** This program is a partnership with area JDR courts and school resource officers. The program provides mediation services for youth offenders and others to help reduce violence, restore peace and effect changes in youth behavior.

Community Capacity-Building Programs:

- **Partnership with Better Business Bureau (BBB) Program:** This partnership enables consumers to work with the BBB to address unresolved complaints about member businesses. Conciliation and mediation services are provided at no consumer cost in most situations. This program permits businesses and consumers to resolve complaints at the earliest possible stage.
- **The “Staying in Touch” Program:** This mediation program, a partnership with Catholic charities and Jewish family services, serves older adults who need to address family, care provider, guardian and agency-related issues.
- **The Public Housing Program:** This program provides mediation and facilitation services to the residents, staff and service providers working in public housing neighborhoods. Over time, center mediators have worked with different Resident Councils, helped with neighbor disputes, and provided residents with opportunities to learn conflict resolution skills.
- **Samoan Circles:** These Circles are designed to allow community groups to engage in dialogue with each other about tough issues like race relations, community decisions or cultural diversity. The program provides a forum for diverse groups to have a leaderless group dialogue and define shared interests.

- **The Family Communication Solution Program:** This program serves families who need mediation services as well as training in communication and conflict resolution skills.
- **Police Contact and Coordination:** One of Virginia's community mediation centers regularly works with officers from Roanoke City's Community Oriented Policing team to discuss how the Center can serve as a resource to help resolve difficult "nuisance" calls (i.e. barking dogs, loud music).
- **The Fairfax County Community Policing Program:** This new program will train police officers to recognize and refer appropriate cases for mediation. Services will be provided in a variety of ways, including by referral and scheduled appointment, at county-wide walk-up centers, and possibly through direct on-site mediation when requested by the police.
- **The Public Disputes Mediation Program:** This program provides mediation services to communities involved in controversial or disputed public policy decisions such as those involving land use and development, immigrant issues, school/community disputes or community-wide disputes.
- **The "Open Door" Program:** This program, funded by the Virginia Law Foundation, is a partnership between a community mediation center and the local Legal Aid Society. In return for center-based mediation training for staff attorneys and pro bono panel, the Society staff work as mentors and volunteers. In addition, center staff work with the Society to develop appropriate mediation case referrals.

General Programs:

- **Group Facilitations and Partnering:** Virginia's community mediation centers offer a range of facilitation services to groups, organizations, businesses and communities. The centers help these clients manage meetings, develop plans, set goals, improve communication and prevent conflicts. Partnering workshops are also conducted for organizations where major projects or changes are expected and collaborative efforts with others will help to achieve goals and foster positive outcomes.
- **Skills Training Programs:** Virginia's community mediation centers offer a wide range of training programs, including basic and advanced mediation skills, family mediation skills, general role play and observation and Virginia Judiciary for Mediators. The centers also offer advanced training in areas such as systems design, public disputes, divorce and multi-party mediation.

Finding #5: Mediation coalitions and umbrella organizations play a range of important roles at the local and state levels.

Several of the states surveyed have independent, state-initiated, or state-sponsored organizations designed specifically to facilitate community mediation at the local and state levels. These organizations can serve several different purposes. However, while they may have sizable member lists, most are typically quite small, usually consisting of a central office and a handful of employees. Some organizations, like New York’s State Dispute Resolution Association (NYSdra) are well-established. Other organizations, like Maryland’s Association of Community Mediation Centers (MACMC), are only a few years old. Finally, some states, like Texas and Florida, do not have any central community mediation organizations.

MACRO and MACMC: Maryland’s Mediation Organizations

Maryland has two of the strongest mediation support organizations in the United States. The Mediation and Conflict Resolution Office (MACRO), housed and funded within the state judiciary, works collaboratively with stakeholders across Maryland to advance the appropriate use of mediation and other alternative dispute resolution processes in courts, communities, schools, state and local government agencies, criminal and juvenile justice programs, and businesses. Created in 1998, MACRO is the 40-member successor to the Maryland ADR Commission.

The Maryland Association of Community Mediation Centers (MACMC) is a 501-c-3 organization that facilitates education, funding and communication efforts among Maryland’s nine community mediation centers. Created by the Maryland ADR Commission in 1999, MACMC’s stated purpose is “to strengthen community mediation centers in Maryland, to promote policy on issues which affect community mediation centers, to promote education, training and research on mediation issues and enhance public awareness of mediation, to assist in the development of new community mediation centers in Maryland, and to act as a clearinghouse of information and services among community mediation centers.”

MACRO distributes Maryland’s annual \$400,000 community mediation appropriation to MACMC, which in turn distributes the funds to the state’s community mediation centers. This substantial funding commitment is currently guaranteed through FY 2002.

MACMC has recently completed a funding model for the distribution of state grants. This model, unique in the United States, provides first-year base grants of \$20,000 to new centers and \$10,000 grants to second-year centers.

MACMC Executive Director Nick Beschen noted that the major challenges facing the organization are expanding its funding base and funding sources and raising public awareness about community mediation.

The older organizations typically offer more services and have a larger lobbying presence. It is equally true, however, that the younger associations are trying out new programs and services, stretching to reach out to their member centers and the general public in exciting ways. Organizations that are closely tied to the state court or legislative systems, as in Hawaii, tend to oversee member center funding and regulation as their primary duties. Other common duties include: guidance/education of new and future community mediation centers, referrals, public relations/education, development of volunteer mediator guidelines, provision of grant and education information to member centers, newsletter circulation, regular meeting and conference organization, and oversight management.

Many of the respondents noted that these organizations have achieved considerable success in the past. The establishment of volunteer mediator education programs and the provision of a central mediation information source were both frequently cited achievements. But respondents also noted that their future goals remain much larger and long-term. While the respondents differed on how to best lobby the state court and legislative systems, virtually all agreed that it was a vital task. Some coalitions are considering starting or expanding the education services that they offer. Other coalitions are looking further afield for grant monies and seeking out private and public sector partnerships.

The respondents also stated that these coalitions face many challenges. Most are underfunded and understaffed – some simply consist of the Executive Director and her office space. Some coalitions must cope with competing organizations, as a state may have an Alternative Dispute Resolution (ADR) Commission, a Community Mediation Coalition and a Chapter of the Association for Conflict Resolution (ACR).

The largest additional challenge, however, remains getting the word out. While member centers and programs may be very aware of a coalition's purpose and activities, gaining visibility within the state court and legislative systems remains a challenge. The *Community Mediation Programs Report* concludes, for example, that:

Some early proponents of the field anticipated that gradually, over time, community mediation programs would become highly visible to the public and become part of everyday experience and knowledge. *This simply has not happened.*⁸

In response to the need, Maryland's MACMC has just received a state grant specifically to increase the general public's awareness of the community mediation services offered within the state. The grant will enable to state's 10 centers to work together to develop a statewide information campaign that will incorporate video, television, and radio spots with written materials.

⁸ Daniel McGillis, *Community Mediation Programs: Developments and Challenges* (Washington, D.C.: United States Department of Justice, 1997): 86.

Mediation Organizations in Virginia

The Virginia Mediation Network (VMN) is a membership organization that began in 1985 when Court Services Unit representatives decided that a court-based network was required to explore the potential for mediation in Virginia. In 1993, VMN's Executive Board created four sections – Community/Nonprofit, Private Practitioner, Public Agency, and Education – to provide members with more opportunities to share information.

The VMN has grown substantially since its inception and now serves primarily as an information resource for both mediators and the general public. The VMN organizes conferences and provides a member directory and a newsletter. The VMN's 320 members include both private and community mediators.

Virginia also has a coalition, the Virginia Association for Community Conflict Resolution (VACCR), dedicated specifically to community mediation. As a result, Virginia is in the vanguard of mediation coalition development, as there are only a handful of such organizations in the United States. Newly created, the organization's goal is to integrate mediation services into Virginia's communities in as many ways as possible. While coalitions in other states also target this goal, VACCR envisions this integration developing largely outside of the court system. Accordingly, Virginia has an opportunity to be a national leader in funding a statewide network of non-court related community mediation programs.

Finding #6: Studies indicate that early-intervention and conflict prevention community mediation programs are highly cost effective. In many states, however, the data remains largely incomplete.

Several states, including California, Florida, Maryland, North Carolina and Michigan either require or request detailed annual reports from their community mediation centers. These reports provide a range of valuable information, including funding sources and case load numbers. However, only Michigan's centers have implemented a model for estimating the cost savings provided by their programs.

Here are the highlights:

The Michigan Agricultural Mediation Program (MAMP)

1998-1999 Program Year Statistics			
Cases Opened and Cases Pending from Previous Year	Agreement Reached	No Agreement Reached	
55	28	13	
Otherwise Closed (Case Withdrawn, etc.)	Cases Pending at End of Year	Agreement Percentage	Estimated Cost Savings (Cost of Appeals Minus Mediation Program Grant Expenses)
8	6	68%	\$1,895,000

The Michigan Special Education Mediation Program (MSEMP)

1998-1999 Program Year Statistics			
Cases Opened and Cases Pending from Previous Year	Agreement Reached	No Agreement Reached	
50	24	5	
Otherwise Closed (Case Withdrawn, etc.)	Cases Pending at End of Year	Agreement Percentage	Estimated Cost Savings (Cost of Appeals Minus Mediation Program Grant Expenses)
17	3	83%	\$670,000

These substantial savings provide a very suggestive initial picture of the cost-effectiveness of community mediation programs. However, there are currently no standardized, agreed upon measures for programs either at the local, state or federal levels. Even states that require or request annual reports from mediation centers request different data types over differing time periods. As a result, comparing data between states and even within a single state is currently a very difficult, limited exercise.

The Mediation Network of North Carolina's 1999-2000 *Annual Report* provides an introduction to some of the data categories and numbers that quantify the value provided by

community mediation centers and their programs. For community mediation centers in North Carolina, these data include:

- Number of centers: 26
- Number of counties served: 73
- Total amount of State appropriations: \$1,297,494
- Range of appropriation amounts: \$23,000 to \$90,000
- Average appropriation amount: \$48,055
- Total amount other funding sources: \$3,035,725
- Total budget amount: \$4,333,219
- Budget for Mediation Network (umbrella organization): \$237,292
- Cases referred for mediation: 16,698
- Cases in which mediation was attempted: 15,016 (90%)
- Cases resolved via mediation: 11,906 (79%)
- Referrals from court officials: 12,742 (76%)
- Referrals from other sources: 3,956 (36%)
- Criminal referrals: 11,635 (70%)
- Non-Criminal Referrals: 5,063 (30%)
- Primary expenditure: employee salaries
- Other significant expenditures: contractual services, FICA, employee benefits, expansion costs, rent payments, supplies, travel costs
- Number of volunteers (includes mediators and non-mediators): 2,418
- Hours served by volunteers: 39,249
- Services provided by volunteers:
 - serving on boards of directors and advisory committees
 - providing facilitation, training and consultation services
 - providing court intake and court liaison services
 - providing community outreach and program development services
 - raising funds and engaging in promotional activities
 - providing foreign language interpreting and translating services
- Most frequently reported goal: establishment of youth and family services

Data Collection in Virginia

There are two sources for mediation statistics in Virginia, but the state legislature does not require an annual report or data from the nine community mediation centers in the Commonwealth. First, the Office of the Executive Secretary (OES) of the Virginia Supreme Court tracks limited data related to the court-referred mediation contracts funded by the state. The Department has tracked the state funds spent on court-referred mediation contracts since 1994 and the number of contractors and the number of mediation contract cases since 1998.

Virginia Court-Referred Mediation Contract Statistics			
	Cases	Amount Spent	Contractors
1994-95:	---	\$55,715	---
1995-96:	---	\$104,965	---
1996-97:	---	\$126,655	---
1997-98:	---	\$118,947	---
1998-99:	1381	\$204,247	50
1999-00:	1922	\$296,299	64
2000-01:	3740	\$458,785	69
Totals:	7043	\$1,365,613	183

Second, the nine community mediation centers each maintain their own statistics.

Case Data for Virginia's Community Mediation Centers, 1998-1999

Mediation Services	
Cases	2267
Hours	6297
Adults Served	4292
Children Benefited	2699
Skills Training	
People Trained	2038
Client Services	
Hours	15,097
Educational Programs	
People Served	4655
Volunteer Services	
Hours	13,392
Budget	\$1,264,395

STUDY FINDINGS: *RECOMMENDATIONS*

The reduction of community tensions and conflict is a vitally important goal for communities across the United States. Our recommendations reflect the assumption that prevention and early intervention are powerful and effective because they reduce the financial costs of public conflicts and help sustain communities.

Programs / Standards

- **Standards of Practice For Community Mediation:** Virginia’s nine community mediation centers should develop a new, uniform "Standards of Practice" for community mediation. These standards would provide community users with assurances of mediator conduct and quality distinct from the court mediation standards promulgated by the Virginia Supreme Court. These standards would address community mediation’s unique needs, conditions and challenges.

Designed, implemented and managed by Virginia’s nine community mediation centers, these standards would provide their communities with assurances of mediator conduct and quality and enhance the visibility of the centers at the judicial and legislative levels.

- **Program Innovation:** Efforts to develop innovative programs for addressing a wide range of community needs should continue. Pilot programs that are successful should be shared with other communities in Virginia.

The field of community mediation grew rapidly during the late 1970s and early 1980s and has continued to grow rapidly during the past decade. Today, across the United States, community mediation centers are developing a wide range of innovative programs. As the *Community Mediation Programs* Report notes, “programs have proliferated across the nation . . . they have diversified their areas of application and now provide services to courts, schools, businesses, and other institutions. They have also become increasingly involved in the resolution of large-scale, multiparty public policy disputes”(67).

Innovative community mediation programs currently tackle issues like race relations, AIDS, public policy, prison, boycotts, migrant workers, agriculture, clean air/water rights, farm grazing rights, employment, religious disputes, community policing, and business/corporate disputes.

Innovative programs, however, require additional funding and stable funding sources. In addition, Virginia’s community mediation centers should develop a mechanism by which innovative and pilot program information can be shared. Sharing information will help ensure that innovative mediation programs reach communities throughout the Commonwealth.

- **Community-Based Programs:** Virginia should further develop the capacities of community mediation centers to address disputes outside of the courts. Innovative community mediation programs require additional funding. These programs should have measurable outcomes and target specific community goals, such as promoting civil society or reducing violence.

Program Development

- **Long-term Funding:** Stable, long-term sources of funding for early-intervention *and* conflict prevention programs in Virginia should be developed. Current funding for court-referred mediation does not cover the full cost to community mediation centers of providing such services. Court-referred mediation provides an important service. However, it impinges on centers' abilities to provide other innovative services in prevention and early intervention.
- **State-wide Coverage:** New community mediation programs should be started in underserved localities to ensure the provision of mediation services throughout Virginia. VACCR should take the lead in collaboration with others, such as the Virginia Mediation Network (VMN) and the Office of the Executive Secretary (OES) of the Supreme Court, to coordinate and extend coverage.

Today, parts of northern, central and southern Virginia lack access to adequate mediation resources. Areas of concern include:

Northern Virginia:

- West of Loudoun County

Central Virginia:

- Farmville and Southward

Western Virginia:

- Staunton and Westward

Southwestern Virginia:

- Bristol and Westward

Southeastern Virginia:

- Petersburg and Southward

- **Legislative Funding Mechanisms:** Virginia should evaluate legislative funding mechanisms from other states. Possible models include Maryland and North Carolina's funding programs, filing fee legislation, Indiana's fee-for-services statute, and New York's prescribed funding commitments.

The most common funding system remains filing fee legislation, which is in place in California, Florida, Michigan, Oregon, and Texas. This legislation requires no additional state funding, but permits localities to choose how to allocate the funds generated from court filing fees. In California and Texas, the fee can range as high as \$8 per case. In Michigan, the fee cannot surpass \$2. State legislation in Hawaii enables the Mediation Centers of Hawaii (MCH) umbrella organization to serve as the fund allocation and oversight agency for the state. In return, the legislation requires that MCH provide annual reports and fulfill other criteria.

In Maryland, North Carolina and New York, the state legislatures have made substantial direct funding commitments. In Maryland in 1999, the state legislature appropriated \$400,000 annually for community mediation. This funding is currently guaranteed through FY 2002. In North Carolina in 1999, the state legislature appropriated \$1,297,494 for its 26 centers. In New York State in 1998, the state legislature appropriated \$3,601,880 in CDRCP grant awards for community mediation.

- **Central Funding Organization:** VACCR should be considered as an entity that could receive state funding and disburse funds. In Maryland and Hawaii, an umbrella organization coordinates centers' funding requests. These organizations enable community mediation centers to work together and raise their visibility at the judicial and legislative levels.

The Mediation Centers of Hawaii (MCH), a 501-c-3 umbrella organization, manages the state's annual Purchase of Services (POS) contract for the six community mediation centers. The state initially allocated \$560,000 annually for the contract, but this amount was reduced by 25 percent in 1997. For the past four years, the POS contract has been for \$424,000 annually.

Managing the POS contract entails:

- Drafting subcontracts for the individual community mediation centers;
- Receiving quarterly payments from the state judiciary and drawing check dispersals;
- Leading the drafting of the biennial state judiciary funding request; and
- Setting up quarterly board meetings on Oahu and coordinating all other meetings.

The MCH has no full-time staff – it is essentially the Board's Chairman and the six member representatives from each of the centers. The MCH Board meets quarterly. The contract's basic components are straightforward: each center receives a base funding amount from the state judiciary plus an additional amount determined by each center's caseload volume. Recently, the POS contract has been expanded to cover community training and facilitation services as well.

The MCH's other primary responsibilities are quality control for community mediation programs and the facilitation of communication between the centers.

Public Education and Outreach

- **Benefits of Mediation and Early Intervention:** Communities should be educated about the benefits of mediation and the specific value of early intervention. Coordinated efforts should inform decision-makers about the programs that are already available or that could be developed. Examples include the many different innovative programs for youth, restorative justice, police partnerships, etc. Also, the availability of free mediation for those who can't pay also needs to be publicized more widely. Centers still find that many people are unaware of their sliding-fee scale and policy of providing mediation regardless of ability to pay.
- **Training:** Key community individuals and groups need to be provided with low-cost or free conflict management training. This training should focus specifically on getting people to resolve their problems with third-party assistance before the problems escalate to the level of violence or legal disputes. This training will help build the capacity of communities to address conflict in a constructive manner.

The more that decision-makers are made aware (through training) of the potential role of community mediation, the more community mediation will be used and will reach its full potential in Virginia and across the United States.

Cost Savings Evaluation and Measures

- **Measurable Benefits:** Standardized methods should be developed for measuring the benefits and cost savings provided by Virginia's community mediation centers. This data would enable communities, state agencies, and private foundations to better understand, in concrete financial terms, the value of early intervention programs.
- **Value-Added Benefits:** Additional methods should be developed to measure the full range of benefits provided by community mediation. A neighborhood's renewed sense of community, a child's improved performance at school, a resident's new-found sense of safety and security – these are all examples of the ways that community mediation can help sustainable communities and civil society.

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Community mediation centers in many states, including Virginia, collect program statistics like caseloads, client numbers and referral sources. These statistics help illustrate the benefits of mediation and justify centers' funding requests. **However, quantifying the benefits and financial cost-savings of early intervention and prevention programs can prove difficult. Today, standardized methods need to be developed that will change this situation.**
.....
Michigan is one of the few states that has implemented such methods and the data are remarkable. In Michigan's Agricultural Mediation Program (MAMP), for example, the annual estimated cost savings in court appeals alone was \$1,895,000 in 1998. For Michigan's Special Education Mediation Program (MSEMP) over the same period, the annual cost savings in court appeals was \$670,000.
.....
Using their own set of standardized methods, Virginia's community mediation centers will effectively quantify and justify their court-related and early intervention programs.
.....

STUDY FINDINGS: *CONCLUSIONS*

Since its inception in the late 1960s, the community mediation field has grown substantially and mediation programs have branched out into a remarkable number of new areas. As Daniel McGillis notes in the *Community Mediation Programs Report*:

Community mediation programs represent, in tangible form, the embodiment of many of the core principles favored by many citizens, including local initiative, volunteerism, combating violence, private/public partnerships, cooperation among people representative of the full diversity of the community, problem-solving of the type embodied in community policing, and national collaboration so that communities can learn from one another.⁹

As the 21st century begins, the community mediation field faces some tough decisions and a series of enduring and new challenges. This study has found that, over the past two decades, community mediation centers have established themselves as the backbone of mediation services of all kinds throughout the nation. They have been the primary training ground for mediators in both private and community sectors and have been the prime innovators in conflict resolution programs for communities. Centers are also the largest providers of mediation services to the working poor and the economically disadvantaged.

However, this stability has come at a price. Community mediation centers in Virginia and across the United States are typically closely tied to local and state court systems. As Scott Bradley and Melinda Smith note, “community mediation centers have had a long and significant relationship with state and local court systems. Nearly half of the member centers of the National Association for Community Mediation receive more than 50 percent of their case referrals from their court systems.”¹⁰ This situation has definite benefits and substantial drawbacks for the community mediation field, as discussed earlier in the study.

The study’s central findings are that current funding levels for court-related mediation programs in most states are insufficient to cover program management costs and that the close ties between community mediation centers and the courts limit centers’ ability to provide early intervention and conflict prevention services.

Recent research indicates that *precisely these services are most needed* to meet the changing, diverse needs of America’s communities. As the Maryland ADR Report *Join the Resolution* notes:

most community mediation centers in Maryland operate under severe resource constraints ... community mediation is a valuable service to Maryland citizens and community mediation services should be encouraged, expanded and financially

⁹ Daniel McGillis, *Community Mediation Programs: Developments and Challenges* (Washington, D.C.: United States Department of Justice, 1997): 91.

¹⁰ Scott Bradley and Melinda Smith, “Community Mediation: Reflections on a Quarter Century of Practice,” *Mediation Quarterly* 17 (Summer 2000): 317.

supported ... the court[s] should take a leading role in supporting community mediation services, *largely because of their potential to prevent conflicts from reaching a level at which court intervention is necessary.*¹¹

This study also has found that the states approach these concerns in different ways, developing funding models, legislation and umbrella organizations to meet funding and coordination needs in an attempt to establish long-term financial and programmatic stability for their centers. However, there remains a massive gap between states like Maryland and North Carolina, with their extensive funding programs and active umbrella organizations, and many other states, some of whom lack a community mediation presence all together. Two-thirds of the community mediation programs included in the National Association for Community Mediation Directory (168 of the 267 programs), for example, are located in only 12 states. In rank order, these states are California, New York, North Carolina, Oregon, Michigan, Washington, Massachusetts, Texas, Virginia, Pennsylvania, Minnesota and Nebraska.

Virginia has a strong network of nine community mediation centers, a mediation coalition (the Virginia Association of Community Conflict Resolution), a mediation membership organization (the Virginia Mediation Network), and the sustained support of the state's courts, through the Office of the Executive Secretary (OES) of the Supreme Court. Since 1994, the OES has managed state funds to pay for mediation contracts. Clearly, Virginia has a strong infrastructure for mediation and a strong track record of support for the provision of mediation to the courts.

This study recognizes that Virginia has the opportunity to serve as a national leader in the community mediation field by funding early intervention and conflict prevention mediation. While court-related program funding and priorities remain important, and will continue to be a constant presence in the community, community mediation centers must increasingly provide early intervention and prevention solutions in order to most effectively serve the needs of their communities. In Virginia, new funding mechanisms, standards, educational efforts and community programs represent a range of powerful new possibilities. VACCR, the coalition of community mediation centers, represents a clear vehicle for implementing many of these recommendations, but it will first need to address the key issue of funding. With these options, Virginia's towns and counties will have greater opportunities to effectively prevent and manage conflict, build new community-wide strengths, and develop into the flexible, sustainable communities they envision.

¹¹ Maryland ADR Commission, *Join the Resolution: The Maryland ADR Commission's Practical Action Plan*, (Towson: Maryland Alternative Dispute Resolution Commission, 1999): 35-38.

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Appendix B: Phase I and Phase II State Listings

States contacted and reviewed in Phase I of the study:

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nebraska
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Oregon
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia
- Wisconsin
- Wyoming

Appendix B (cont.): Phase I and Phase II State Listings

States selected for in-depth analysis in Phase II of the study:

- California
- Florida
- Hawaii
- Indiana
- Maryland
- Michigan
- New York
- North Carolina
- Oregon
- Texas

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Appendix E: Descriptions of Virginia's Nine Community Mediation Centers

The Community Mediation Center (CMC)

Created in 1984, Harrisonburg's Community Mediation Center was the first alternative dispute resolution service and training agency in Virginia. The CMC provides leadership in the field of violence prevention, collaborative decision-making, and alternative dispute resolution. Among its programs, the CMC provides a Restorative Justice Initiative, Victim/Offender Conferencing, Certified Training programs, School Peer Mediation programs, and Business/Organizational Offerings. Ninety percent of the Center's cases result in agreements between the parties involved.

The Conflict Resolution Center (CRC)

Roanoke's Conflict Resolution Center provides:

- mediation/facilitation and conflict resolution training services for ten public housing neighborhoods;
- mediation for all levels of court and coordinates all circuit court referrals;
- a parenting education class for separating parents that provides conflict resolution training for youth in an alternative school (GED program);
- mediation and negotiation skills training for parent/community/school disputes through a partnership with local schools and parent groups; and
- mediation services for police and community referrals.

The Dispute Resolution Center

The Dispute Resolution Center, located in Richmond, Virginia, was founded in 1987 by joint efforts of the Virginia State Bar, the Virginia Bar Association and Virginia's Better Business Bureau. The Center focuses on teaching and service in the field of alternative dispute resolution and provides mediation and family/divorce mediation services. Mediation fees are determined by a sliding scale based on the client's annual income.

The Dispute Settlement Center (DSC)

Norfolk's Dispute Settlement Center is a certified United Way Agency and the only not-for-profit community mediation center in southeastern Virginia. Since 1990, the center's 60+ volunteer certified mediators, its staff and Board of Trustees have been helping the citizens of Hampton Roads use mediation to find common ground. The center handled 805 cases during the past year and spent 3,655 volunteer hours and more than 1,400 hours providing mediation services. The Center provided mediation services to 202 economically disadvantaged families in the past year at no or very low cost.

The Mediation Center at FOCUS

The Mediation Center at FOCUS, located in Charlottesville, provides direct mediation services for Virginia Circuit, General District, Juvenile and Domestic Relations and Supreme Court referrals. The Center also offers a wide range of training programs. During 1999-2000, the Center mediated 148 cases, 106 of which were court-referred. Over the same period, the Center trained 33 individuals in conflict resolution and 177 individuals in mediation training.

Northern Virginia Mediation Service (NVMS)

Northern Virginia Mediation Service is the regional community mediation center for Northern Virginia. Established in 1988, NVMS has a volunteer board of directors and six staff. NVMS offers a range of services and is affiliated with the Institute for Conflict Analysis and Resolution (ICAR) and George Mason University. During its first decade, NVMS has provided services in more than 3,000 cases and currently averages about 500 cases per year. These 500 cases are about equally divided between court-referred cases and cases referred by other sources. About 85 percent of non-court ordered cases, 70 percent of court-ordered non-domestic, and 60 percent of court-ordered domestic cases result in agreements between the parties.

Peaceful Alternatives Community Mediation Services

The Peaceful Alternatives Community Mediation Services, located in Amherst County, serves six counties and one city. The center has established a school truancy mediation program, a youth accountability conference program for juvenile conflicts and relationship concerns, an anger management and conflict resolution strategies program for sixth and seventh graders in an alternative school and a collaborative multi-party program for environmental issues. The center is also developing a restorative justice program and pilot programs targeting eldercare, health care and housing issues.

The Piedmont Dispute Resolution Center (PDRC)

Warrenton's Piedmont Dispute Resolution Center offers a range of community mediation programs. The center provides a restorative justice program, a school-based student mediation program and neighborhood mediation workshops that bring police and citizens together. Finally, the PDRC also conducts seminars for business leaders on diversity training and provides employee mediation for local government.

Rappahannock Mediation Center (RMC)

The Rappahannock Mediation Center, located in Fredericksburg, serves Caroline, King George, Spotsylvania and Stafford Counties and the City of Fredericksburg and the town of Colonial Beach. Incorporated on February 2, 1989, the center began as a grassroots organization with a mission to "empower individuals, groups and organizations to resolve conflict amicably." Today, the RMC has two full-time staff and 58 volunteer members. Twenty-five volunteers are Virginia Supreme Court-certified. In addition to a wide range of mediation services, the RMC also provides mediator training, community education, and school-based peer mediation training programs. In 1997-98, the RMC served 1,216 individuals. In 1998-99, the RMC served 2,188 individuals. In 1999-2000, the RMC served 3,270 individuals.

Appendix F: Collected Study Quotes

North Carolina:

- *“Building meaningful community capacity and changing conflict patterns are the most powerful tools provided by community mediation programs. Many of the elements of true democracy are present in the work we do. I believe that if, in any given situation, there is a community and a conflict, placing everyone together in one room and working through the mediation process will result in the most equitable and elegant solution possible.”*

-- Scott Bradley, Executive Director, Mediation Network of North Carolina

New York:

- *“What you find many times with people who are referred to community mediation is that they have not spoken directly to the person who they’re in conflict with. Community mediation provides the capacity for people to meet face-to-face and to really hear the issues. Enhancing people’s ability to discuss issues is the beauty of the process. It prevents an escalation, it’s inexpensive, and it’s personal.”*

-- Lisa Hicks, Executive Director, New York State Dispute Resolution Association

Maryland:

- *“Everyone involved with community mediation in Maryland believes that it provides an affordable service that goes a lot further than easing court dockets and reducing police calls. Community mediation programs preserve relationships and yield long-lasting results. The research on community mediation programs is only beginning to document its dynamism and potential for community-wide success.”*

-- Nick Beschen, Executive Director, Maryland Association of Community Mediation Centers

Hawaii:

- *“Here in Hawaii, we’ve found out that the usefulness of mediation within a community really has no bounds. It can be very creative, as long as you keep the basic tenets of mediation, the neutrality, the fairness, the allowing of parties to control their own destiny, in mind. Over time, we’ve learned that more, rather than less, is always possible with community-based mediation programs.”*

-- Bruce McEwan, Chairman, Board of Directors, Mediation Centers of Hawaii (MCH), Inc.

Florida:

- *“The benefits of community mediation is something I believe in to my core. It enables people to resolve conflicts themselves and provides the space and time to do so. Community mediation centers are vital so that people to have a place to resolve conflicts.”*

-- Sharon Press, Director, Florida Dispute Resolution Center

Indiana:

- *“Personally, I find this work very satisfying. I feel I have the opportunity to make a difference in the lives of a good many people.”*

-- Dwight Ericsson, Director, Education for Conflict Resolution (ECR), Huntington

Appendix G: Questions Used in Ten-State Survey

General Question Sheet for All States/Mediation Centers

1. Who provides the major voice for mediation in the state? The Supreme Court? An Association of mediators? Other?
2. Who provides the major voice for non-court related mediation in the state? Individual centers? A Coalition?
3. How would you characterize the role of attorneys in mediation - generally -in your state?
4. Does the role of attorneys change when we talk about community mediation?
5. Are there "standards of practice" for mediation in your state, such as training and mentoring requirements and ethical standards for mediators?
 - If yes, are these "standards" statutory (i.e., adopted into state law)?
 - Do these standards apply to both court related cases, and non-court related cases?
 - Who developed and/or promulgated these standards?
6. Are there examples you would cite, or data, or sources of information about the benefits of non-court related community mediation in your state?
7. Or is there something that *you* would be willing to say about the benefits of community mediation, that we can quote in our study?

Question Sheet for Non-Court Related Community Mediation Programs

8. What do you consider to be your (i.e., your center or your state's) strongest non-court related community mediation program(s)?
9. What are the programs that offer the most promise for the future?
10. What are specific goals of these programs?
11. What was the impetus for the creation of these/this programs?
12. When was the program designed and implemented?
13. Was extra staff training needed?
14. How is the program funded?
15. What has most helped the program to sustain itself over a long period of time?
16. What have been the program's greatest challenges?
17. Do you have partners for the program?
18. What are your measures of success or methods of evaluation of these programs?

Question Sheet for Established Coalitions/Umbrella Organizations

19. We understand there is/is not a coalition/umbrella organization for community mediation centers in your state. Is this correct?
20. Does the membership include just community mediation centers, or does it include private mediators too?
21. To what extent do your organization's members share resources?
22. How have your organization's needs/services changed over time?
23. What are the organization's major projects in the past two years?
24. What are the major projects that the organization foresees in the next year or two?
25. What do you think are some of the lessons that the organization has learned since its inception?
26. Could you please describe the organization's mission and goals?
27. How is the organization funded?
28. When was the organization founded?

Question Sheet for Direct Legislative Funding

29. We understand that your state does/does not directly fund community mediation centers. Is this correct?
30. Is the state funding designated for specific kinds of services or can it be used for community services at the discretion of the center? How much of the funding can be used for non-court related mediation?
31. Can you share some of the legislative history of the statute/direct funding for community mediation centers?
32. When did your state legislature adopt this statute/ direct funding?
33. Which state agency is designated to provide oversight for this funding?
34. Has the statute been implemented? How well? For how long? If not, why not?
35. Has the legislature changed or updated the funding mechanism over time?
36. Are there alternatives to the current direct funding mechanism?

Attachment H: State Legislation Example

Indiana Code 34-57-3. 1998 Legislative Action in Support of Community Mediation

IC 34-57-3

Chapter 3. Community Dispute Resolution

IC 34-57-3-1

Sec. 1. This chapter applies to the following disputes:

1. A criminal offense that a prosecuting attorney has referred to a dispute resolution center under a diversion program under IC 33-14-1-7.
2. A civil action that has been filed and referred by the court to a dispute resolution program for alternative dispute resolution under IC 34-57-4 (or IC 34-4-2 before its repeal).
3. Civil disputes that do not involve an insurance claim, in which the parties voluntarily submit to community dispute resolution without filing an action in court.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-2

Sec. 2. (a) The community dispute resolution centers program is established.

- (b) The chief justice of Indiana shall do the following to the extent that sufficient funds are available:
1. Administer and supervise the program.
 2. Select centers to receive funding from applications that are submitted under this chapter.
 3. Distribute funds for the establishment and continuance of centers on the basis of need in the community.
 4. Adopt rules that are necessary to carry out the purposes of this chapter and IC 34-57-4.
- (c) The chief justice of Indiana, subject to the approval of the budget agency, may hire the personnel necessary to administer the program.
- (d) The Indiana supreme court may collect an annual voluntary contribution in the amount of twenty-five (\$25) from each attorney admitted to practice before the Indiana supreme court. The money collected from the voluntary contributions shall be used for the program.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-3

Sec. 3. Applications submitted for funding under this chapter must include the following information:

1. The cost of operating each of the proposed centers, including the proposed compensation for employees.
2. A description of the proposed area of service and the number of participants expected to be served.
3. A description of available dispute resolution services and facilities within the proposed geographical area.
4. A description of the applicant's proposed services, including a description of the following:
 - (a) Support of civic groups, social service agencies, and criminal justice agencies to accept and make referrals.
 - (b) The present availability of resources.
 - (c) The applicant's administrative capacity.
5. Additional information required by the chief justice of Indiana.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-4

Sec. 4. To be eligible for funds under this chapter, a center must do the following:

1. Comply with this chapter and the rules adopted by the chief justice of Indiana.
2. Provide neutral mediators who have received training in conflict resolution techniques as specified under rules adopted by the chief justice of Indiana.
3. Provide dispute resolution without cost to a participant who is indigent and at nominal or no cost to other participants.
4. Provide dispute resolution services to the community for parties who participate on a voluntary basis.
5. Ensure that any arbitration services offered by the center are in compliance with IC 34-57-2.
6. At the conclusion of the dispute resolution process do the following, if an agreement is reached:

- (a) Provide a written agreement or decision setting forth the settlement of the issues and future responsibilities of each participant.
- (b) If the matter was referred by the court for dispute resolution after a cause was filed, provide a written agreement or decision to the court that made the referral.
- (c) If the matter was referred by a prosecuting attorney for dispute resolution, provide a written agreement or decision to the prosecuting attorney that made the referral.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-5

Sec. 5. Each center that receives funds under this chapter must:

1. Be operated by a grant recipient;
2. Be operated under a contract with the chief justice of Indiana; and
3. Comply with this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-6

Sec.6. (a) Funds available for the purposes of this chapter may be allocated for services provided by eligible centers.

- (b) A center in existence before July 1, 1992 may apply for funds available under this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-7

Sec. 7. The chief justice of Indiana may accept, apply for, and disburse public or private funds for the purposes of this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-8

Sec. 8. (a) A grant recipient may accept funds from public or private sources for the services provided by the grant recipient.

- (b) The state board of accounts, the chief justice of Indiana, or an authorized representative of the state board of accounts or the chief justice of Indiana may inspect, examine, and audit the fiscal affairs of local programs or centers.

- (c) Centers must, whenever reasonably possible, make use of public facilities free

or at nominal cost.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-9

Sec. 9. A center operated under this chapter is not a state agency or an instrumentality of the state. Employees and volunteers of a center are not employees of the state.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-10

Sec. 10. IC 34-57-2 applies to arbitration conducted under this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-11

Sec. 11.

- (a) Except as provided in subsection (c), the following are not subject to subpoena or discovery or admissible in evidence in any judicial or administrative proceeding:
 - 1. All work product of a mediator.
 - 2. Any communication relating to the subject matter of the dispute made during the resolution process by a participant, mediator, or other person present at the dispute resolution.
- (b) A mediator or a staff member of a center may not be compelled to testify in a judicial or an administrative proceeding with respect to a dispute that has been referred to a center for dispute resolution.
- (c) Subsection (a) does not apply to a written agreement or decision provided to the participants, the court, or a prosecuting attorney under section 4(6) of this chapter (or IC 34-4-2.5-9(b) before its repeal).

As added by P.L.1-1998, SEC.53.

IC 34-57-3-12

Sec. 12. A center that receives funds under the program must annually provide the chief justice of Indiana with statistical data and other information that the chief justice of Indiana requires.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-13

Sec. 13. The chief justice of Indiana shall prepare and submit an annual report to the governor and the general assembly that evaluates and makes recommendations concerning the operation and success of centers funded under this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-14

Sec. 14. Section 1(2) of this chapter does not prohibit a person who has been referred by the court to a dispute resolution program from filing a motion with the referring court for a trial de novo.

As added by P.L.1-1998, SEC.53.

IC 34-57-3-15

Sec. 15. (a) This section applies to a dispute described in section 1(3) of this chapter.

(b) Except as provided under subsection (c), the running of a statute of limitation ceases to run after the time:

1. arbitration is initiated under IC 34-57-2-2 (or IC 34-4-2-2 before its repeal); or
2. the parties sign an agreement to mediate.

(c) The statute of limitation resumes running after the earlier of the following:

1. The date the parties enter into a written agreement under section 4(6) of this chapter (or IC 34-4-2.5-9(6) before its repeal).
2. Six (6) months after the date that the statute of limitation was suspended under subsection (b) (or IC 34-4-2.5-20(b) before its repeal).

As added by P.L.1-1998, SEC.53.

Attachment I: Example of Funding Model Criteria

Maryland's nine criteria points that MACMC uses to evaluate community mediation center funding applications

The Nine-Point Model for Community Mediation

1. Train community members - who reflect the community's diversity with regard to age, race, gender, ethnicity, income and education - to serve as volunteer mediators.
2. Provide mediation services at no cost or on a sliding scale.
3. Hold mediations in neighborhoods where disputes occur.
4. Schedule mediations at a time and place convenient to the participants.
5. Encourage early use of mediation to prevent violence or to reduce the need for court intervention, as well as provide mediation at any stage in a dispute.
6. Mediate community-based disputes that come from referral sources including self-referrals, police, courts, community organizations, civic groups, religious institutions, government agencies and others.
7. Educate community members about conflict resolution and mediation.
8. Maintain high quality mediators by providing intensive, skills-based training, apprenticeships, continuing education and ongoing evaluation of volunteer mediators.
9. Work with the community in governing community mediation programs in a manner that is based on collaborative problem solving among staff, volunteers and community members.