

RSI SPECIAL TOPICS

COMMUNITY MEDIATION

RESOLUTION SYSTEMS INSTITUTE

In collaboration with National Association for Community Mediation



RSI

ABOUT THIS SPECIAL TOPIC

RSI's Special Topics summarize and explore various topics related to court ADR and are categorized by profession and subject. The following Community Mediation Special Topic is a collaborative effort brought to you by [Resolution Systems Institute](#) and the [National Association for Community Mediation](#). RSI staff members Jennifer Shack, Nicole Wilmet, and Susan Yates joined NAFCM representatives Brennan Frazier, Cherise Hairston, D.G. Mawn, and Christine Poulson to create this Special Topic.

In this Special Topic, you will find:

- The [background and history](#) of community mediation
- The [relationship between courts and community mediation](#)
- Information on [how to track and evaluate](#) community mediation programs and activities
- A [list of exemplary studies](#) on the effectiveness of community mediation and research that helps centers to better address issues surrounding the provision of services.

We hope you find this resource to be helpful in your work!

COMMUNITY MEDIATION SPECIAL TOPIC

COMMUNITY MEDIATION BASICS

Resolution Systems Institute thanks the National Association for Community Mediation for contributing this section on Community Mediation Basics to the Community Mediation Special Topic.

WHAT IS COMMUNITY MEDIATION?

Community mediation offers constructive processes for resolving differences and conflicts between individuals, groups and organizations. Participants control the process and create their own alternatives to avoidance, destructive confrontation, prolonged litigation or violence. Community mediation offers participants an opportunity to discuss their concerns and needs. It also strengthens relationships, builds connections between people and groups, and creates processes that make communities work for everyone. Community mediators support participants through difficult conversations, providing a safe environment to discuss the participants' needs while participants retain decision-making authority. Community mediation centers offer a variety of conflict intervention processes – depending on the needs of the participants and the capacity of the center – that support participants in addressing their own and their community's unique conflict needs.

Community mediation in the United States began in the 1960s during the civil rights movement as efforts to achieve racial, ethnic, class and gender equality gained momentum. The federal government nurtured the development of community mediation by embedding the Community Relations Service (CRS) within the Department of Justice in the 1964 Civil Rights Act. This required the creation of a non-violent and constructive model for dealing with community conflict that continues to be used today.

In an effort to provide neighborhoods with localized conflict resolution services, organizations sprouted nationwide. Initially, these programs focused on prosecutor-sponsored programs where community members would mediate minor criminal conflict and neighbor disputes. One goal of these types of programs was to reform the justice system. However, a second, parallel path developed. Those that forged this path more closely followed the philosophical framework of the social and political activism of the day, finding that the forum for resolution of community civic issues was within the community itself, not necessarily the institutional structures designed to address such conflict.

PATH ONE: JUDICIAL PARTNERSHIP

In 1965, a Presidential Commission on Law Enforcement and the Administration of Justice focused national attention on our country's overburdened judiciary. These findings helped build consensus around the need for reform and experimentation in and around the court system, with particular focus on minor criminal cases involving neighbors, relatives and other acquaintances. Early programs included the Philadelphia Municipal Court Arbitration Tribunal (1969); the Columbus Night Prosecutors Program (1971), which used law students to mediate cases in 30-minute time slots; the Institute for Mediation and Conflict Resolution in Manhattan (1975); and the Miami Citizen Dispute Settlement Program (1975).

In 1976, the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, known as the "Pound Conference," resulted in the creation of "Neighborhood Justice Centers" in Los Angeles, Kansas City and Atlanta. At these centers, people could access dispute resolution services and actively participate in crafting faster, cheaper and (often) more appropriate resolutions than the crowded and overburdened courts could provide.

The early goals of these court reform programs are still present today:

- Divert cases from court caseloads
- Provide more appropriate processes for selected types of cases
- Provide more efficient and accessible services to citizens
- Reduce case processing costs to the justice system
- Improve citizen satisfaction with the justice system

In October 1977, the Law Enforcement Assistance Administration (LEAA) of the US Dept. of Justice released *Neighborhood Justice Centers: An Analysis of Potential Models* that reviewed the various models mentioned above, many of which LEAA funded.

PATH TWO: COMMUNITY SELF-DETERMINATION

On the second path, community-focused centers were established under the premise that people have the ability to resolve conflicts on their own. On this path, community conciliation mechanisms were viewed as an opportunity for residents to participate in the prevention and early intervention of conflicts as an alternative to institutional mechanisms. At the heart of the early community mediation movement were principles of democratic participation, drawing on citizen rights and responsibilities and the involvement of networks of community organizations.

Proponents of the early community mediation movement expected that the mediation process would have a positive impact on living conditions in urban centers by affecting underlying levels of inter-group and interpersonal conflict. Not only could mediation afford participants a sense of power and control over their lives, the open process could also allow participants the opportunity to listen, be heard and create sustainable responses. This approach allowed community mediation participants to humanize each other and look beyond their own assumptions to see each other as real people with real concerns and needs, even in the midst of disagreement.

Mediation was viewed as an empowerment tool for individuals, as well as communities, as the open process allowed individuals to take back control over their lives from a governmental institution, i.e., the courts. Early community-based models include: the Rochester American Arbitration Association Community Dispute Service Project (1973), a broad-based response to conflicts in the community resulting from changing racial balances; the Boston (Dorchester) Urban Court Program (1975), a court-connected storefront urban neighborhood justice center in a rapidly integrating Irish-American neighborhood with growing racial tensions and fear of crime; and the San Francisco Community Board Program (1977).

These programs shared some of the same goals as the court reform programs in developing more appropriate and accessible forms of dispute resolution but went beyond that to embrace the following:

- Seek to encourage decentralization of the control of decision-making in communities
- Create a parallel, community-based justice system that addresses disputes well before they enter the formal legal system
- Develop indigenous community leadership
- Work to reduce community tensions by strengthening the capacity of neighborhood, church, civic, school and social service organizations to address conflict effectively
- Strengthen the ability of citizens to actively participate in their local democratic processes for effective self-governance

THE SHARED PATH

Community mediation has spread throughout the country and moved from the margins to the mainstream. Starting with approximately ten programs in 1975, the movement has grown to an estimated 400 mediation centers in the US. Community mediation centers handle 400,000 disputes annually and 75% of these centers provide mediation for small claims courts and 49% for civil courts, thus demonstrating the continued connection between community mediation and courts. While a large percentage of community mediation centers offer services to courts, they also offer programs and services that aim to meet a community's dispute resolution needs at earlier stages of conflict.

During this growth, each community has adopted a model that is culturally appropriate and sustainable in that community. Considering the diverse nature of communities, a universal community mediation model would not be appropriate.

THE NINE HALLMARKS OF COMMUNITY MEDIATION

In 1992, a group of community mediation center leaders identified a set of guiding principles that define the practice of community mediation. These hallmarks stem from both paths and are used by community mediators to guide their growth and practice. Two years later, from this shared effort, these practitioners created the National Association for Community Mediation (NAFCM). NAFCM was designed to be the national organization supporting the work of community mediation and promoting the use of the nine hallmarks. The nine hallmarks bind all the divergent paths of

community mediation in both philosophy and practice. Each community mediation center is at a different stage of embedding and actualizing the hallmarks into both center culture and communications. Yet, however different the expression, the common values of self-determination, community wisdom and institutional collaboration remain the same.

Hallmarks 1-5 focus on core strengths needed by community mediation centers.

- A private non-profit or public agency or program thereof, with mediators, staff and governing/advisory board representative of the diversity of the community served.
- Using trained community volunteers as providers of mediation services; the practice of mediation is open to all persons.
- Providing direct access to the public through self-referral and striving to reduce barriers to service including physical, linguistic, cultural, programmatic and economic.
- Providing service to clients regardless of their ability to pay.
- Providing service and hiring without discrimination on the basis of race, color, religion, gender, age, disabilities, national origin, marital status, personal appearance, gender orientation, family responsibilities, matriculation, political affiliation, source of income.

Hallmarks 6-7 focus on the core focus of creating a safe forum for participants.

- Providing a forum for dispute resolution at the earliest stage of conflict.
- Providing an alternative to the judicial system at any stage of a conflict.

Hallmarks 8-9 recognize the strengths found by raised community consciousness.

- Initiating, facilitating and educating for collaborative community relationships to effect positive systemic change.
- Engaging in public awareness and educational activities about the values and practices of mediation.

WHAT TYPES OF ADR PROCESSES ARE USED IN COMMUNITY MEDIATION?

Community mediators use methods of dispute resolution that empower participants to advocate for their needs, make their own decisions and be accountable for their actions or decisions. The following are examples of the types of processes that may be used and case examples.

MEDIATION

Mediation is a voluntary process whereby mediators help participants work together to resolve conflict. A mediator guides participants in a process, usually face-to-face, that allows participants to

hear each other's concerns and then work with each other to come up with ideas for the resolution of conflict. In this model, a mediator will actively listen to allow everyone an opportunity to build a greater appreciation of others and themselves, **be impartial** and not take sides or give advice, and **support the participants through a collaborative problem-solving process**. During this process, participants can either (1) develop solutions that meet their needs, or (2) decide to remain in the parts of the conflict they are not yet ready to face or address.

Community mediation centers use a variety of models and styles. Together, these methods help people experiencing conflict to create solutions that fit their needs and help them transform their relationship for the better. Mediation may be used to resolve a wide variety of disputes including: neighbor/property disputes, landlord/tenant issues, parenting and child custody issues, work disputes and criminal matters.

CASE EXAMPLE

Joe purchases a riding lawn mower from Janice after learning of the mower through a neighborhood communication app. The mower ceases working within two weeks and Joe publicly, through the app, accuses Janice of knowingly selling him a lemon. Janice responds by denigrating Joe. Another app user suggests that the two use a community mediator to resolve the issue.

FACILITATION

Facilitating small or large community conversations is an often-used service of community mediation. Trained facilitators can help design meetings, lead effective decision-making processes, ensure that all voices are heard and keep meetings on-track so that the community's goals can be reached. In community mediation, facilitators use conflict-resolution skills to help keep conversations productive. Using local facilitators who live in or near a community is often advantageous in that they understand the cultural constructs that impact the issues being discussed.

CASE EXAMPLE

A school board wants to acquire land near a residential neighborhood to build a football stadium. Residents of the neighborhood are concerned about noise levels, traffic flow, aesthetics and property values. School board meetings have been raucous as residents have made their concerns known. A community mediator is called in to help design and facilitate meetings wherein all stakeholders have the opportunity to voice their opinions, ask questions and offer ideas as to how to meet the school's needs without negatively affecting the neighborhood.

TRAINING AND CONFLICT COACHING

Inherent in the idea of community mediation is the belief that people can resolve conflicts on their own. To help people develop the skills to resolve conflicts effectively and live peaceably with their neighbors, training is made available. Not only can people learn to resolve their own conflicts peaceably, they can also learn how to help others do the same.

CASE EXAMPLE

Rob has been moved up to a managerial position at the local YMCA due to his outstanding performance as the maintenance person and his likable personality. Rob now needs to manage staff who have weekly interpersonal disputes. He fears conflict, so avoids handling these staff conflicts. The YMCA hires a community mediator, who is a trainer, to offer conflict coaching to Rob and conflict resolution training to the entire YMCA staff.

RESTORATIVE JUSTICE

Restorative justice seeks to bring the recipient of the harm into the center of a conversation in a way that is restorative for those involved, including the perpetrator of harm, the recipient of harm and the affected community. In these processes, the focus is on how to best repair the harm that was done as opposed to focusing on the rules or laws that were broken. Restorative justice processes include a diversity of practices. Within restorative justice processes, in addition to the ones listed below, there is a diversity of approaches such as peacemaking, relationship-building, sentencing and re-entry. Some of the most common restorative justice processes include:

- **Victim-offender mediation** in which a specially-trained mediator/s guides the offender and the offended through a process that allows them to share the impact of the harm and to discuss how the offender can make things right.
- **Accountability circles** in which the offender, the offended and members of the community are joined by a trained restorative justice practitioner who offers guidance identifying how best to repair the harm and bring the offender back into community.
- **Re-entry mediation** in which an incarcerated person, with the guidance of a trained mediator, meets with his or her support network to create guidelines and points of agreement that will help the incarcerated person successfully re-enter society post-incarceration.

CASE EXAMPLE (ACCOUNTABILITY CIRCLES)

Rhonda's mailbox has been pelted with rocks and destroyed. A neighbor saw (and knew) the teenagers who did the damage. They were celebrating after a victorious football game. The police called in a restorative justice practitioner to try to get Rhonda and the teens together for victim-offender conferencing. During the conference, the teens described how they were so stoked after their game that they got into a little harmless celebrating. Then Rhonda described how when she came home and saw her mailbox, she thought that a former abuser had found her and was leaving her a message that "he was back." Traumatized, she took her daughter out of school and left the state for a few days.

Recognizing that their reckless behavior had traumatized Rhonda, the boys were apologetic. They restored the mailbox and said that they would each

pass by her house occasionally to make sure that she was okay and report any suspicious behavior. Her perpetrators became her protectors.

CONCILIATION

Conciliation is a process whereby a conciliator goes back and forth between parties in conflict to try to bring about resolution. As in mediation, the participants are responsible for decision-making.

CASE EXAMPLE

Sharon and Doreen were in the same college sorority years ago. They have different political opinions and, through the sorority's alumnae email list, have been antagonistic. After some particularly antagonistic exchanges, both Sharon and Doreen removed themselves from the list and the group, and refused to communicate with each other. The alumnae group had been tight, and the group members were hopeful that Sharon and Doreen could agree to some ground rules that would allow for their continued participation in the group. It was decided that Sally, who is respected by Sharon, Doreen and the group, would attempt to conciliate between the two. She called one, and the other, and shared their ideas, back and forth, as to how the women could communicate without pushing the other's political buttons. Within a month, they had agreed to the guidelines and joined the group once more.

A CLOSER LOOK AT COMMUNITY MEDIATION CENTERS AND THE NATIONAL ASSOCIATION FOR COMMUNITY MEDIATION (NAFCM)

Each community mediation center is uniquely designed to serve the community in which it is located. Each center maintains relationships with its mediators and with community partners.

Mediators in community centers often include: **trained volunteers, trained mediators who receive stipends or staff trained as mediators.** Centers often have a core of paid professional staff who organize a cadre of volunteers. Examples of center personnel include case managers, program coordinators, trainers, facilitators and restorative-justice practitioners.

Given the versatility of community mediation, a wide variety of organizations often partner with community mediation programs. Examples of organizations that partner with community mediation programs include government agencies, police departments, schools, courts, housing organizations and communities of faith.

NAFCM supports community mediation by being the hub for advancing its work, aggregating the wisdom of community mediation and amplifying the voice of community mediators. The purpose of NAFCM is to support the maintenance and growth of community-based mediation programs and processes; to present a compelling voice in appropriate policy-making, legislative, professional and other arenas; and to encourage the development and sharing of resources for these efforts. The services provided by NAFCM member centers vary, depending upon the needs of the disputants and community and the capacity of the community mediation center.

HOW COURTS AND COMMUNITY MEDIATION WORK TOGETHER

The relationship between courts and community mediation can be described using two factors: case referrals and funding. Interestingly, these two factors may or may not be correlated with one another. For example, some courts may refer cases to community mediation programs but not provide funding from the court to the program.

COURT CASE REFERRALS

The flow of cases from court to community mediation can be understood in terms of how cases are referred, what kinds of cases are referred, where referred cases are mediated and when in the life of a referred case mediation happens.

HOW ARE CASES REFERRED TO COMMUNITY MEDIATION?

Case referrals from court to community mediation may be mandatory or voluntary. Entire groups of cases may be referred simply based on the type of case, such as all post-decree parenting disputes. Others may be selected based on particular criteria. For example, courts might refer only those misdemeanor cases involving people who have an ongoing relationship, such as friends, family or neighbors. In yet other situations, the court may select individual cases in which the disputants do not have an ongoing relationship, such as small claims cases in which there seems to have been a miscommunication between consumers and merchants.

WHAT TYPES OF CASES ARE HANDLED BY COMMUNITY MEDIATION?

Courts and community mediation centers generally agree upon the types of cases that will be referred. These include many of the case types described under “What Types of ADR Processes are Used in Community Mediation?” Most often, courts refer civil, criminal, juvenile and family cases to community mediation.

- **Civil matters** are most likely to be small claims, such as landlord/tenant, consumer/merchant, and debt collection cases. Some community mediation centers handle other civil cases such as employment discrimination, property issues, housing and breach of contract cases.
- Community mediation centers may handle minor adult **criminal matters**, e.g., property damage, assault and theft, using restorative justice, mediation or other ADR processes.

Many cases that can broadly be categorized as family- or child-related may be referred to community mediation. Parents who are splitting up may be referred by courts to community mediation to work out parenting issues and child support – whether or not they were married.

- Cases involving **juveniles** may be mediated in community centers – both the types of cases in which the young people have misbehaved (juvenile justice cases) and the cases in which they have been the victims of abuse and neglect (child protection or child dependency cases). Similarly, conflicts that arise when guardians are appointed for children or adults, may be referred to mediation.

WHERE DOES COURT-CONNECTED COMMUNITY MEDIATION TAKE PLACE?

Some community mediation services are provided on-site in the courthouse while others are offered off-site. There are pros and cons to each approach. For example, courts generally offer a secure setting and are usually centrally located, but they are usually only open during the day during the work week and may feel intimidating. Many community mediation programs have their own space, while many others make use of community spaces, such as libraries and houses of worship.

WHEN DOES COURT-CONNECTED COMMUNITY MEDIATION HAPPEN?

Sometimes community mediation services are offered on the spot by a judge when disputants are appearing before her, such as in a small claims matter. The mediator may usher them into a nearby conference room to mediate. Other times cases are scheduled for mediation for a later date. This scheduling may happen at the time of filing with someone like a court clerk, or later in the life of the case, such as at the first hearing, with mediation to be completed before the trial date.

COURT FUNDING

Community mediation centers often receive funding from courts, which use a variety of formulas. Some state court systems provide financial support to community mediation centers throughout the state based on factors such as the numbers of cases handled in particular jurisdictions. Some state courts leave it to local jurisdictions to choose whether to support community mediation from their individual court budgets. Those funds might be derived from court filing fees or included as an appropriation from the court's budget.

Many community mediation centers rely on non-court sources of funding, too. RSI has written about funding in our Guide to Program Success. See [“Chapter 5: Figure out your Budget and Funding.”](#)

HOW TRACKING AND EVALUATING MEDIATION SERVICES CAN HELP COMMUNITY MEDIATION CENTERS

Regularly collecting and analyzing information about services can yield important insights for community mediation centers. This information is valuable internally to inform the center about how to improve existing services and design new services. It is also valuable externally to make the case to stakeholders that they should support and use community mediation.

Collection and analysis of information can take the form of ongoing tracking of services, or it can entail a more in-depth, time-limited evaluation. **Tracking** mediation services helps centers to have an understanding of how their services are being used and facilitates the management of the volunteer mediators. It involves collecting and reviewing data such as numbers and types of cases referred and mediated, results of mediation, party assessment of mediators, and party satisfaction.

Evaluation digs a little deeper into the quality of a center's services and what can be done to improve them. It generally answers more complex questions about the health and effect of program processes and client experience. Further evaluation gives the center the data needed to convince funders, referral sources and other stakeholders of the value of the services provided. If there are issues with those services, evaluation assures that those issues are being competently addressed.

TRACKING AND EVALUATING SERVICES

Tracking is generally done in-house, although an outside evaluator can help to set up the data collection system needed to do so. Evaluation can be done either in-house or by an independent evaluator. In-house evaluations can be sufficient when the questions and needed analysis are not complex. An independent evaluator should be consulted for more complex evaluations or when funders require an independent analysis of services.

WHAT TO TRACK

Ongoing tracking allows community mediation centers to answer important questions about their services. This tracking can provide answers to questions like:

- How many cases referred by the court ended up being mediated? How many referred cases used our services?
- What were the outcomes of mediations and other processes? Are those outcomes meeting the needs of our referrers?
- What do participants think about our services? How do they feel about their mediator? Are there any mediators who require intervention?
- Who are we serving? Do we need reach out to specific communities to get more individuals from them to use our services?
- Are trainees getting what we want them to get out of our training? Do we need to address any deficiencies?

Answering these questions requires the following basic data to be tracked:

- **Number of referrals, including self-referrals.** These should be categorized by the source and/or program involved (such as small claims court, prosecutor's office, police, community or social service agency, etc.).
- **Percentage of those referred who ultimately decide to use the center's services.** This is particularly important for those who call in to get more information about mediation or another process before deciding whether to move forward, as a low percentage may indicate a need to change how mediation is presented. (See "[Overcoming Barriers to Mediation in Intake Calls to Services: Research-Based Strategies for Mediators](#)" for more on this.) This, too, should be done by referral source and/or program.
- **Number of mediations and other processes conducted, tracked by program.**
- **Outcomes of mediation or other processes, tracked by program.** Outcomes include whether the process ended with an agreement, and may include a juvenile's completion of an agreement for restorative justice programs.
- **Participant experience.** Surveying participants after an ADR process is about more than satisfaction. It also ensures that participants are being provided the benefits of the process and can help monitor mediator competence and safety. These surveys are difficult to do well. See the RSI/ABA [Model Surveys](#) for more information on how to use surveys effectively.
- **Who the center is serving.** Funders often want to know what percentage of clients is made up of minorities and/or those considered to be low-income.

For training and coaching, tracked data includes:

- **Knowledge and/or skills gains** made during training. For example, did participants believe they learned more about overcoming impasse? If the training includes simulations observed by trained coaches, they can assess whether the trainees have gained the desired skills. If not, then [post-training surveys](#) can be helpful, giving the participants the opportunity to indicate how much they learned.
- **Participant assessment** of the training and trainers.

WHAT TO EVALUATE OVER A LIMITED TIME

The above items are those that should always be collected. The following are factors that can be useful for improving services and managing the center. They can answer questions such as: Do we need to change how we conduct intake? Is the court referring all appropriate cases to the center? Are our mediators following our protocols? Do our agreements include terms that address underlying

needs and interests? Are they sustainable? Do our costs for a program warrant continuing the service?

- **How well center processes are working for clients, stakeholders and staff.** These include the court's referral procedures, intake, reasons referred cases aren't mediated, pre-mediation interviews, reporting to the court or other agency, mediator debriefing, etc.
- **The percentage of possible cases/disputes that are referred to the center,** such as the percentage of eligible cases referred by the court.
- **Reasons mediation or other processes don't end with a positive outcome,** such as agreement or positive participant experience.
- **Agreement terms,** particularly to examine the creativity of agreements reached in mediation.
- **Percentage of cases that have further disputes/are re-litigated,** including cases that return to court for violation of agreement terms, further calls to the police in neighbor disputes, etc.
- **Costs and time spent per case.**

OVERCOMING OBSTACLES TO EVALUATE

The three main obstacles to conducting quality evaluations that community mediation centers face are often the same obstacles these centers face more generally: lack of time, money and specialized expertise. Following are some tips to help centers improve how they are collecting reliable information and analyzing it.

WAYS TO KEEP COSTS AND TIME DOWN

START WITH EXISTING SYSTEMS

The first step any center should take is to assess what is being collected, then figure out what else needs to be added to the list. The next step is to determine what the current data collection system, whether a spreadsheet, a database or a full-blown case management system, can track and how much can be automated through that system. For example, creating pull-down lists in Excel.

PRIORITIZE

It's easy to go down a rabbit hole and want to collect every available piece of data or answer every question you have. This will, at best, lead the center to put off improving data collection and, at worst, lead it to throwing in the towel. It's better to prioritize what information is most important. Is there a sense that a particular process isn't working well? That mediators aren't properly obtaining

consent? Start with data that will answer those questions. Does a funder need to know whether agreements are being sustained? Focus on that question.

DON'T REINVENT THE WHEEL

Centers don't need to start fresh when developing data collection tools. There are [model surveys](#) and samples of [other centers' tools](#) available online. These are not only samples to work from, but may also have been tested to be sure they work.

USE TECHNOLOGY

For those whose data collection system can't do what they need it to do, there are low-cost or no-cost options. The more automated the system, the better. Google Forms can be used for mediators to enter information about their mediations, such as the outcome, who participated, the time it took, etc., however, care should be taken to ensure that the data remains secure. Google Forms or a low-cost online survey application can be used for post-mediation participant surveys. If online surveys aren't possible, [optical mark recognition \(OMR\) software](#) allows for the paper completion of surveys, that can then be automatically read into a database via a scanner.

LOOK TO YOUR VOLUNTEER MEDIATORS

Center volunteers have hidden talents. To uncover them, centers often mass email their volunteers. They should do the same for data collection or evaluation assistance.

GET AN INTERN TO HELP

A local college or law school can identify an intern to help with tasks such as the following:

- Making follow-up calls to determine if agreements have been completed
- Turning your paper and pencil surveys into online surveys
- Figuring out how to run reports from Survey Monkey or the ODR software
- Entering data

LIMIT CONSULTANT COSTS

Evaluators often provide unbundled services, such as adapting surveys, designing the evaluation system or analyzing data already collected. They also provide capacity building or coaching services that would help centers to be able to do evaluations internally.

There are IT professionals who provide pro bono or reduced-cost services. These are often available locally and can be found online.

LOOK TO OTHER AVAILABLE RESOURCES

Local resources, such as the court or another community mediation center can provide expertise. The court may have ideas and/or IT personnel who can help. Another center may have already come up with solutions to address data collection and analysis. There are national resources that can help as well, such as [NAFCM's Clearinghouse](#) (which is available only to NAFCM members) and [RSI's court ADR Resource Center](#).

SEEK SPECIAL FUNDING

A regular funder might make an additional special gift to enable the hiring of an evaluator. There may be funders who are especially interested in making capacity-building grants, which would allow for the hiring of an evaluator to help design systems and train staff to properly analyze data and report on findings.

A NOTE ABOUT RESEARCH

Researchers and academics often look at broader questions about ADR services in general. Their focus is on what in general leads to better outcomes, such as whether caucusing before mediation is more effective than not caucusing, whether a particular screening tool is better at identifying intimate partner violence than another, or when the best time is for courts to refer cases. The primary focus of research is on generating new knowledge, not in determining whether a particular program is achieving its goals or needs to address issues with implementation in order to be more effective.

Community mediation centers can use research to determine the most effective design for a program or what to train mediators to do. They can also use research to convince others of the effectiveness of current or proposed services. But generally, centers will not undertake research on their own. They can, however, participate in research or partner with researchers who need access to cases and information.

EXEMPLARY STUDIES

The following list of studies have been selected to provide reliable information on the effectiveness of community mediation or the processes that centers use, as well as information that can help centers to better address issues surrounding the provision of services. These include screening for intimate partner violence, conducting intake, mediation training and more.

EVALUATIONS AND RESEARCH OF ADR EFFECTIVENESS

GENERAL

[Beyond Agreement: The Critical Impact of Community Mediation](#) (2017)

This short article discusses the results of a cost-benefit analysis conducted of the services provided by Hawaii's state-funded community mediation centers. The study found that "the net long-term impact of the mediation and dispute resolution services provided by the mediation centers in FY16-17 amounted to \$9,914,000. This amount was based on savings in community support costs, reductions in community medical care expenses, savings in housing and support costs and savings in community law enforcement, court systems and other governmental agency costs."

[Mediation of Interpersonal Disputes: An Evaluation of North Carolina's Programs](#)(1993)

This in-depth study evaluated three of the nineteen community mediation programs in North Carolina. It focused on misdemeanor cases involving court-referred interpersonal disputes. It found that participants were very satisfied with the mediation process in these cases and recommended that intake procedures were improved in order to increase program usage.

SMALL CLAIMS

[Mediation and Adjudication in the Small Claims Court: The Effects of Process and Case Characteristics](#) (1995)

The study described in this article attempted to discover the reason for differences in effectiveness between small claims cases that were adjudicated and those that were mediated in four district courts in the Boston area. After comparing case characteristics, the author determined that the differences were based upon the processes themselves rather than the characteristics of the disputes and disputants using each procedure.

LANDLORD-TENANT/HOUSING

[Freeing the Parties from the Law: Designing an Interest and Rights Focused Model of Landlord/Tenant Mediation](#) (1997)

Defending mediation from critiques that mediation hurts the poor and disempowered by ignoring the legal rights put in place to protect them, the authors point to research that finds that in landlord/tenant cases mediation better serves the interest of the tenants than adjudication. This is derived from a study comparing the experiences of tenants whose cases were mediated to those whose cases were not. The study found that in non-mediated cases, landlords were more likely to be

granted possession and less likely to have any conditions placed on them. Further, mediation reduced the likelihood of having an execution issue against the tenant.

FAMILY

[The Charlottesville Mediation Project: Mediated and Litigated Child Custody Disputes](#) (1989)

This randomized control trial study found a higher agreement rate and shorter time to settlement for mediated cases. It also found that men felt mediation addressed their interests better than litigation, while women felt the opposite.

[Divorce Mediation: Research and Reflections](#) (2001)

This is a follow-up to the Charlottesville Mediation Project Study. This study found that noncustodial parents assigned to mediation reported more frequent current contact with their children and greater involvement in current decisions about them. Parents in the mediation group also reported more frequent communication about their children during the period since dispute resolution. In addition, parents who mediated made more changes to their agreement over twelve years: 1.4 as compared to 0.3. Party satisfaction remained higher for the mediation group after twelve years than for the non-mediation group.

[The Child Custody and Visitation Program in North Carolina: An Evaluation of Its Implementation and Effects](#) (2000)

This comparative study examined cases in counties with mandatory mediation and cases in which court-connected mediation wasn't available. It found no difference in time to disposition, trial rate or long-term satisfaction with the outcome. Parents who mediated had higher long-term satisfaction with the process. Attorneys for parents who mediated believed they spent less time and money on the case.

[Evaluation of the University of Denver's Center for Separating and Divorcing Families: The First Out-of-Court Option](#) (2017)

This is an evaluation of the Resource Center for Separating and Divorcing Families, the first U.S. alternative dispute resolution model to provide legal dispute resolution, therapeutic, education, and financial services to separating and divorcing families.

CHILD PROTECTION

[What We Know Now: Findings from Dependency Mediation Research](#) (2009)

This article presents the findings of studies conducted up to 2009. The studies show that mediation programs have difficulty getting referrals, but that when cases do end up in mediation, mediation is largely successful in leading to agreement. It also succeeds in getting parents more engaged in the parenting plan, engaging the extended family and enhancing communication. There is some initial evidence that parental compliance with parenting plans is increased through mediation, but further research is needed to confirm this.

[An Evaluation of Child Protection Mediation in Five California Courts](#) (1997)

This comparative study found that fewer mediated cases required a contested six-month review hearing, as compared to those not mediated. Almost all parents felt they had a chance to talk about

issues important to them and most preferred mediation to court. At six months post-disposition, mediated cases showed better compliance with the treatment plan than the control group.

Child Protection Mediation: An Evaluation of Services Provided by Cook County Juvenile Court (2010)

This study examined both the process and outcomes of a single site program, including participant experience and stakeholder views of the program. It found that the program had a high agreement rate, parents viewed mediation very positively, believing they had a better chance to express their point of view than in other forums and that they had an equal chance to talk. Professionals believed mediation helped move the case forward.

Improving an Effective Program: A Comprehensive Evaluation of the Superior Court of the District of Columbia Child Protection Mediation Program (2018)

The evaluation found that the program was effectively achieving its goals, including increasing the probability of a parent stipulating prior to trial, enhancing parents' understanding of their responsibilities and of others' perspectives, enhancing professionals' understanding of the parents' situations and the perspective of others at the table, and making progress on the issues in the case. Although the program is effective, the professionals and mediators were frustrated with aspects of the process. Using the focus group discussions, judge interviews and staff insights, as well as case and mediation data, the evaluation led to a number of recommendations to improve the program process.

ELDER

Alaska's Adult Guardianship Mediation Project Evaluation (2001)

This study of the first year of a statewide program found a high-resolution rate, high satisfaction and a possible reduction in the number of hearings held.

RESTORATIVE JUSTICE

A Summary of the Evaluations of Six California Victim Offender Reconciliation Programs (2000)

This evaluation of six countywide juvenile victim-offender mediation programs in California found that restitution collected from mediation participants exceeded that collected from the comparison group by more than 40% in five of six counties. The recidivism rate of mediation participants was at least 10% lower than that of comparison group in five of six counties. More than 90% of participants in all programs were very satisfied. Completion of the program ranged from 71% to 93%.

The Effectiveness of Restorative Justice Practices: A Meta-Analysis (2001)

Findings from studies comparing the efficacy of restorative justice programs to traditional court programs are examined in this study. The analysis indicates that restorative justice programs have a significant, positive impact on victim and offender satisfaction and on restitution compliance. There appears to be no real impact on the rate of recidivism.

RESEARCH THAT CAN INFORM PRACTICE

The following research topics are useful for helping to ensure that the services provided are the most effective.

HOW PROGRAM OR PROCESS CHARACTERISTICS AFFECT OUTCOMES AND EFFICACY

[A Randomized Control Trial of Child-Informed Mediation](#) (2013)

This study compares child-focused (CF) mediation and child-inclusive (CI) mediation to standard family mediation. The study found that CF and CI mediations led to agreement provisions that were seen to be more likely to promote the well-being of the child, but did not increase the likelihood of settlement or parental satisfaction.

[Child-Informed Mediation Study Follow-Up: Comparing the Frequency of Relitigation Following Different Types of Family Mediation](#) (2015)

In this follow-up to the previous study, the researchers found that both child-informed processes (CI and CF) resulted in fewer motions, orders and hearings in the two years following case resolution than did traditional mediation. Additionally, researchers found that agreements that addressed issues such as parental communication and interparental conflict were less likely to return to court than cases with agreements that did not address those issues.

[Timing is Everything: The Appropriate Timing of Case Referrals to Mediation: A Comparative Study of Two Courts](#) (2001)

This study looked at two demographically similar counties, James City County and York County, Virginia, to determine if there was any empirical evidence demonstrating that early intervention mediation resulted in a greater number of successfully mediated cases than the more traditional approach of referring parties to mediation at the preliminary hearing. The study found that in James City County, which utilized early-intervention mediation, 72.9% of the 105 petitions accepted for mediation resulted in a mediated agreement, compared to an agreement rate of 39.5% in York County (which utilized the more traditional method of referral). Further, 14.3% of the 105 petitions in James City County were adjudicated by the court, while York County experienced an adjudication rate of 59%. York County also had almost five times more court hearings than James City County.

WHAT MEDIATOR BEHAVIORS ARE MOST EFFECTIVE

[ABA Section of Dispute Resolution Report of the Task Force on Research on Mediator Techniques](#) (2017)

This report looked at 50 studies that examined the effect of mediator techniques and actions on (1) settlement and related outcomes; (2) disputants' relationship or ability to work together and their perceptions of the mediator, the mediation process, or the outcome; and (3) the attorneys' perceptions of the mediation. The studies provide no clear guidance about which techniques will have a positive effect on outcomes and which will be detrimental. However, four categories of techniques were found to have the potential to increase the probability of settlement and improve party relationships and perception of the mediation. Each of the four focuses on the parties in some way.

What Works in Child Access Mediation: Effectiveness of Various Mediation Strategies on Custody Cases and Parents' Ability to Work Together (2016)

The researchers found that when more time was spent in caucus, the parties were less likely to believe that they could work with the other party to resolve their conflict or that they had multiple options for resolving it. Additionally, eliciting participant solutions had the most positive impact on the participants, and participants were more likely to say they understood the other party, were clear about their own desires and that their underlying issues had been revealed.

Caucus with Care: The Impact of Pre-Mediation Caucuses on Conflict Resolution(2007)

A study of 1,381 labor and family mediations was conducted in the Netherlands. Mediators completed questionnaires immediately after mediation. The questionnaires focused on the use of caucus before and during mediation and on three outcomes at the end of mediation: whether agreement was reached, whether interpersonal conflict was reduced and whether goal compatibility between the parties was increased. The study found that pre-mediation caucuses were most successful when they focused on trust-building because doing so reduced interpersonal conflict. On the other hand, using caucuses to push parties to accept a settlement proposal led to increased post-mediation conflict and had no impact on settlement.

Process Matters: Disputant Satisfaction in Mediated Civil Cases (2008)

In research based upon a survey of parties in small claims mediations in New Mexico, satisfaction was found to be related to process factors that are tied to mediator behaviors and skills. Structural factors, such as gender, ethnicity or attorney presence did not affect party satisfaction. The conclusion the researchers drew from this is that party satisfaction with mediation is in the hands of the mediators.

ISSUES SURROUNDING INTIMATE PARTNER VIOLENCE

Analysis of Mediation Agreements of Families Reporting Specific Types of Intimate Partner Abuse (2001)

The article focuses on reporting and analyzing information gathered from a study concerning the identification and effect of Intimate Partner Abuse (IPA) on mediation. The study quantified the frequency of different behaviors categorized as IPA (psychological abuse, physical abuse, escalated physical abuse, sexual abuse). The study's findings lead the authors to emphasize that mediators should assess the psychological impact of IPA on the victim's ability and desire to fairly negotiate a long-term legal agreement and should focus on ensuring that parents are aware of the psychological consequences of IPA for all members of the family, along with how to remedy the impact of abuse.

Comparing the Mediation Agreements of Families with and without a History of Intimate Partner Violence (2001)

In this study, researchers coded family mediation agreements from a law school mediation clinic according to whether or not there was a history of intimate partner violence (IPV). Researchers hypothesized that certain issues would be more or less likely to appear in agreements from families with IPV than from those without. The researchers found no significant difference in issues such as custody or parenting-time arrangements. However, families with a history of IPV were more likely to include safety restrictions and counseling referrals.

Detection of Intimate Partner Violence and Recommendation for Joint Family Mediation: A Randomized Controlled Trial of Two Screening Measures (2015)

This study compares the frequency at which ADR program staff are able to identify high-risk couples with a history of intimate partner violence (IPV) based on whether they used an instrument that asked specific behavioral questions (MASIC) or an instrument that included only broader questions. The study found that parties were more likely to report physical violence using the MASIC screen.

HOW PARTICIPANTS EXPERIENCE MEDIATION

The Physiologic Stress Response During Mediation (2017)

Individuals undergoing physiological stress during mediation may experience anger, selective attention and biased memories. As a result, these individuals may be more susceptible to misinterpreting the mediator or other parties during mediation, have feelings of preservation and may have difficulty with problem solving. To combat these stressors, the authors suggest mediators build trust and rapport with the parties (through small talk, active listening and open body language), remind parties that they are the decision makers, acknowledge and normalize stress triggers and model calm behavior themselves. The authors also recommend modifying the structure of mediation to start with early caucuses (to allow parties sufficient time to de-stress and decrease cortisol levels) and schedule decision-making portions of mediation later in the day.

COMMUNITY STRATEGIES THAT ARE MOST EFFECTIVE

Overcoming Barriers to Mediation in Intake Calls to Services: Research-Based Strategies for Mediators (2013)

In this study, the author analyzed recordings of 200 intake calls for neighbor disputes at community mediation programs. The article describes several "barriers to mediation" in these calls which led some callers to decline to mediate.

WHEN TRAINING METHODS ARE MOST EFFECTIVE

Games, Claims, and New Frames: Rethinking the Use of Simulation in Negotiation Education (2013)

Role-play simulations have long been considered an effective tool for training mediators. In this article, the authors review dozens of studies on the effectiveness of simulations to evaluate how beneficial role-play simulations are in practice and find only partial support for simulation effectiveness.