



Community Solutions to Justice

Solutions for Faster, Fairer, and More Effective
Justice in American Communities

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Foreword

By Johnny Davis, J.D., LLM

My 28-year legal career has included extensive criminal defense work and addressing constitutional issues in state and federal courts, including various appellate cases. In addition, much of my career has consisted of scholarly research into the criminal justice system.

The American justice system suffers from a fundamental lack of fairness and disrespect for the rights of both victims and defendants. Many indigent criminal defendants have a problem making bond and spend years incarcerated before trial. Further, the legal system is expensive and tends to disrespect the rights of and deny access to the poor. Community solutions to justice enable full access to justice, resolving disputes and removing monetary incentives that promote injustice and deny access to justice to the poor. Many of these solutions embrace restorative justice instead of the punitive and confinement focus of the courts. Community solutions can also help avoid the courts' costly litigation and the legal system's delays while providing respect for all involved and seeking to cure the underlying ills of our justice system.

In my opinion, most non-violent cases can be settled through one of the methods outlined in the report. All the solutions and methods

you will find in this report are available at little to no cost. The caseload burden these solutions take from the court system can enable more rapid adjudication of those cases needing to stay in the traditional criminal justice system. Further, there is a far greater chance of rehabilitating defendants through these solutions than the current system, which tends to trap defendants in a cycle of crime and punishment.

I am excited that the Institute for Community Solutions is taking up the challenge of addressing the serious problems with the criminal justice system. The current injustices make a mockery of Constitutional rights and justice, and I believe the solutions outlined in this report can give community leaders, advocates, and engaged citizens the tools they need to achieve faster, fairer, and more effective justice for their communities.

Acknowledgements

Developing this report has been a massive undertaking, spanning nearly two years of research and thousands of volunteer hours. An acknowledgment in here is but a small token of our gratitude to everyone who made this report possible, not only investing their time, resources, and faith in a new report in a little-understood subject area, but who invested their time, their resources, and their faith in a new organization to make it happen.

Firstly, thank you to ICS's small but dedicated donor base who invested in this project despite far fewer updates from me than you likely needed. A special thank you to our board members, Tim Clarke, Cassandra Fryman, Jeff Lewis, Robert Perry, and Rick Rivkin, who not only invested in this project but then gave of their time to ensure it was able to be completed.

Secondly, thank you to our research team, including ICS Research Director Isaac Lindemberger, and research assistants Daniel Blois and Sonya Zuniga, for working hundreds of long, sometimes thankless hours putting the pieces together that eventually became this research paper. Your persistence in continuing even as the research met dead-end after dead-end is the reason this report is published today.

Thirdly, thank you to the ICS advisory board, our criminal justice advisor Johnny Davis, JD,

LLM, Prof. James W. Payne, who first suggested the use of case studies for this report, and Prof. Joseph Fioramonti, who has a gift for understanding how to create a report that won't just sit on a shelf.

To the dozens of nonprofit staff and volunteers who dug in old filing cabinets, put together spreadsheets, and dedicated extra hours to pass our strict evaluations and be a part of this project, it would have been impossible to do without you. You and your organizations are why this report can help community leaders achieve faster, fairer, more effective justice for their communities. Thank you to Jody Suhrbier, Nicholas Schmitt, Jessica Goldberg, Dana Henderson, Longmont Police Commander James Brown, Catherine Gunderson, Erin Goudreau, Probation Officer Nick Nyman, Xiani Williams, Ed Cue, D.G. Mawn and all your overworked staff for the effort you put into this project.

Finally, thank you to the academics, researchers, and practitioners who reviewed this report for accuracy before its release. Thank you to Dr. Jeffrey Butts, Dr. Kathleen Daly, Dr. Mark Umbreit, attorneys Cory Stufflebeem and Loren Walker, and Representative Lorig Charkoudian. Your contributions will help communities find solutions that deliver speedy, fair, effective justice.

Executive Summary

In 1906, noted legal scholar and future dean of Harvard Law School Roscoe Pound warned his audience at the annual convention of the American Bar Association not to overlook the “very real dissatisfaction with courts and disrespect for the law that exist in the United States today.”

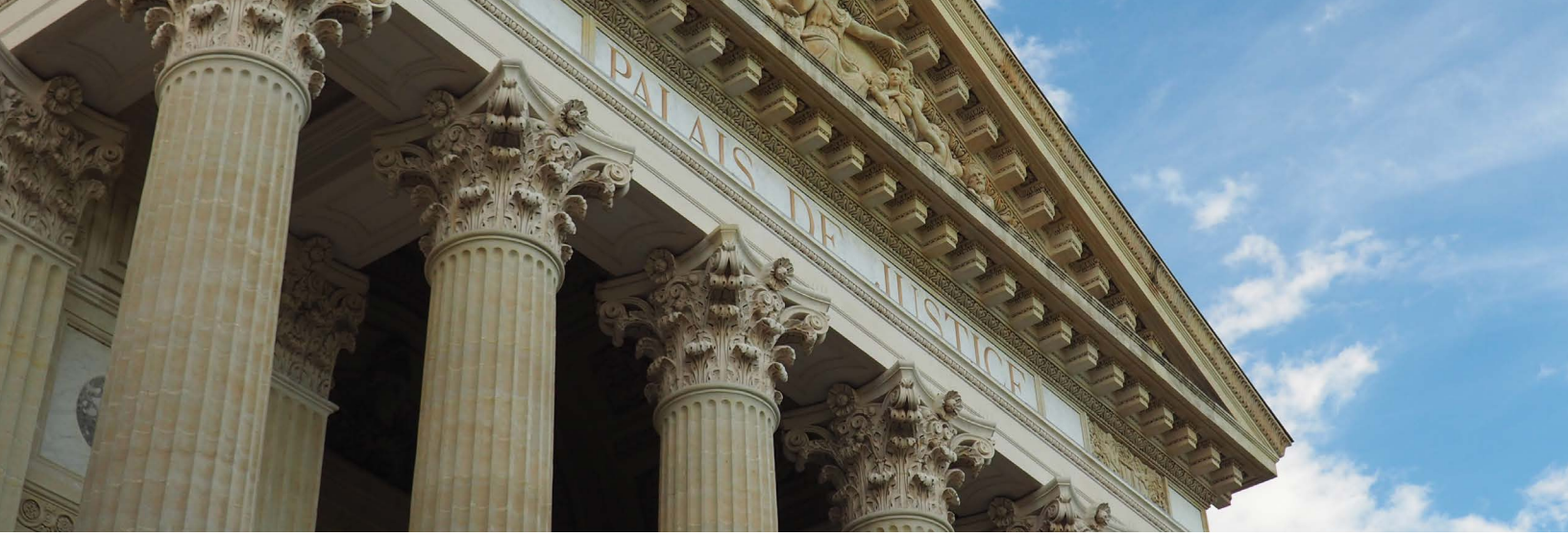
Over 100 years later, little has changed in the average American’s opinion of the court system. The courts are consistently ranked as some of the least-trusted institutions. One 2019 survey found that just 36% of Americans have confidence in the courts, local, state, or federal, lower than many other American institutions. A 2022 poll by the National Center for State Courts (NCSC) found that, for the first time in the poll’s history, a majority of Americans say that the courts do not provide equal justice to all.

The courts struggle to deliver on the principle of speedy justice, with victims and the accused alike waiting hundreds of days to have their cases heard. The courts struggle to deliver on fair justice, with outcomes often tilted towards those who can pay. The courts also struggle to deliver on effective justice, giving the United States the highest recidivism rate in the world.

While many reforms have been proposed and advanced to address these issues, we present one approach that has, as of yet, been little examined. Community solutions to justice.

This report did not originally start as a research project into community solutions to justice. In April 2020, we were approached by a detective in Milwaukee, Wisconsin about their COVID-driven case backlog. The growing backlog of cases in his city had left people waiting up to three years to have their case heard, nearly 10 times longer than the wait pre-COVID.

We started searching the country for nonprofit solutions to court backlogs. What we found instead went far beyond backlogs; A vast array of community solutions to justice, ranging from civil to criminal, operated by nearly 200 nonprofits throughout the country, that offer promise to address some of the most pressing problems with America’s justice system. Rather than focusing exclusively on court backlogs, we decided to open a window into community solutions to justice, their benefits and drawbacks, and case studies that show how they work in communities across the country.



This report, *Community Solutions to Justice: Solutions to Faster, Fairer, and More Effective Justice in American Communities*, contains the results of over two years of research into community solutions to justice. We were able to identify 5 solutions: arbitration, community mediation, restorative conferencing, victim-offender dialogue, and teen court being used in the United States today, by nearly 200 organizations, in 41 states across the country.

These solutions offer a vast number of potential benefits over traditional justice. These include faster case processing, reduced costs, increased compliance rates, a great perception of fairness, and significantly reduced recidivism. They also have some limitations, including the types of cases they can address, the caseload they can take on, and a lack of formal rules and protections common in traditional justice.

We trace the history of each solution, identify the steps each process takes to achieve justice, the benefits and drawbacks of each solution, and, for every solution except arbitration, provide an in-depth case study of how this solution is working in a community today. In the appendixes, we include resources for those who want to bring one of these solutions to their community and a list

of every active community justice program in the United States today.

It is our hope that this array of community solutions to justice, combined with the academic research and resources in this report, will help community leaders, advocates, and citizens bring faster, fairer, and more effective justice to their communities.



Dan Johnson

Executive Director, Institute for Community Solutions

Introduction

Luis, Mike, Nancy, and Enrique 4 Stories of Community Justice

Community justice programs intervened in Luis, Mike, Nancy, and Enrique's* lives at just the right time. Luis was a sixth grader who likely would have been lost to crime. Mike likely would have gone to jail for embezzlement instead of being given a chance to pursue his career. Nancy may have been saddled with additional funeral home charges right after her mother's death. Enrique could have lost a prized piece of jewelry to a kid in the exact same situation he grew up in.

For each of them, some victims, some offenders, some just members of a dispute, community justice programs all gave them a chance to resolve their conflicts and repair their harms and deliver outcomes that would be unlikely in the traditional justice system.

*Names have been changed to protect privacy.

Luis

Luis's life has been forever changed by community justice. When he was a sixth grader in Santa Barbara, he dropped a smoke bomb in a snake hole in an avocado field. When it exploded, it caught the avocado grove on fire. Eventually, the fire spread to other groves, catching each successive one on fire.

Nº 10

By the time the fire department was called, the fire had spread beyond Luis's neighborhood. The Santa Barbara County Fire Department eventually had to call in air support to suppress the fire.

Luis was initially sent to the Santa Barbara County Prosecutor's office for felony arson. When an assistant district attorney received the case, instead of prosecuting him, she contacted a local community justice agency to ask if they would take the case instead. "She goes, there's no way that I'm going to prosecute. This kid goes, can we send this to teen court? We know this is a felony offense, but we'll drop it, we'll call it a wobbler," said Ed Cue, Director of the Council on Alcoholism and Drug Abuses (CADA)'s teen court program.

CADA's teen court took on Luis's case and started looking into his circumstances. "It turns out mom was a functional heroin addict," Ed says. Luis's mom worked as a hospital administrator and had developed a functional heroin addiction. Drug dealers were regularly knocking on the door demanding money, and Luis avoided staying home.

The Santa Barbara Teen Court jury handed down a sentence of therapy for his mother's

substance abuse and, since putting out the fire had used a significant amount of the Santa Barbara County Fire Department's resources, volunteering at the fire department for the summer.

10 years later, Ed was getting a hamburger in downtown Santa Barbara when he ran into Luis and his fire captain. Luis's captain introduced him as the newest member of the Santa Barbara County Fire Department. "You can have the most dramatic impact on somebody's life by intervening at the right time," says Ed.

Mike

Mike's crimes were less accidental. As an employee of a major corporation in Longmont, Colorado, he had embezzled money from his employer. His employer agreed to participate in a restorative conference with Mike instead of pressing charges.

While in a restorative conference, Longmont Community Justice Partnership (LCJP) staff looked at Mike's strengths instead of focusing primarily on the harm he had caused. "We ask 'who are you?' Who do you love? What are your strengths and skills? And as part of that assessment, that's supporting this idea of hey, we know that you are more than this decision that you made," says Dana Henderson, LCJP's Community Programs Director.

During their assessment of Mike, LCJP staff discovered that he was an aspiring welder. His career goal was to work on pipelines in

Alaska and Canada. His former employer agreed to try and find a way to lean into Mike's strengths in the ultimate resolution.

While in the conference, Mike suggested that one of his contract items be to repair cart corrals at the company's Longmont stores. "He said 'I know they are damaged and just stay broken because there's no one to fix them'," said Dana. His former employer agreed and Mike was able to use his strengths to repair his former employer and prepare him for a career that was bigger than his biggest mistake.

Nancy

Nancy's worst day could have been her mother's funeral. Instead, it was when the funeral both she and her brother were supposed to pay for was charged in full to her credit card. Her mother's life insurance had paid out to both her and her brother, but only she had paid her portion to the funeral. The funeral home charged her brother's amount to Nancy after he neglected to pay.

She called her credit card company to dispute the charge, but the credit card company couldn't help. It was a legitimate charge, even if it was charged to the wrong person. The funeral home refused to deal with her directly as well, citing the fact that the funeral needed to be paid for by someone.

Nancy filed a small claims suit in New York City court. Due to NYC's small claims presumptive mediation program, her case was

Nº 11

diverted to the New York Peace Institute. The institute set up a mediation session. “The funeral home was willing to talk with her, but they weren’t willing to give her all her money back prior to the session,” said Nick Schmitt, Esq., the NY Peace Institute’s Program Manager for Civil and Housing Court.

During the mediation, Nancy and the funeral home were both able to share their side of the story. The funeral home had been a family-owned business for 40 years, and giving up the entire cost of the funeral would be a significant loss. Nancy explained that her brother was the “black sheep” of the family and it probably wouldn’t be worth trying to get the money from him. At the end of the mediation, the funeral home ended up not only removing her brother’s charge from her credit card, but giving her back her portion of the funeral costs as well.

Enrique

Enrique grew up struggling with food insecurity, but had built his own business from the ground up in San Diego and lived in one of the nicer neighborhoods in the city. One day, he came home to find his home burglarized.

When the Restorative Justice Mediation Program (RJMP) asked if he’d be willing to meet with the young man, Adrian, who had burglarized his home, Enrique agreed. In the meeting, he discovered that Adrian, like Enrique had when he was young, struggled with food insecurity. “He really identified with him,” said Xiani Williams, RJMP’s program director.

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One of the key items Adrian had stolen was a ring. In the meeting, Enrique told Adrian he really cared about the ring. He said “No questions asked, but do you think you can get it back?,” said Xiani. Adrian agreed to try. Two weeks later, RJMP staff received the ring.

In talking with Adrian, Enrique learned that Adrian’s goal had been to join the United States Navy. Struck by his act of kindness, Enrique decided to employ Adrian at his business washing trucks for the summer. “Instead of pressing charges and enforcing restitution that Adrian’s parents likely couldn’t pay, Enrique decided to give Adrian another chance. Enrique ended up employing Adrian until he left for bootcamp to join the Navy.

What are Community Solutions to Justice?

Community solutions to justice is the name we've given to the broad panoply of nonprofit programs that seek to help people resolve disputes and repair harms in communities across the United States. Much like the traditional court system, each of these solutions brings those alleging harm and those who have been harmed together to resolve a conflict. However, they are run independently and voluntarily outside the traditional justice system.

These solutions vary in formality. Some, like arbitration, operate very similarly to the traditional justice system. There are rules of evidence, parties, and a judge, with the only difference being that parties get to choose the arbitrator, or "judge," for their case. Others, like community mediation, can be entirely unstructured conversations with a neutral moderator and the goal of an agreement at the end.

These solutions also address different types of cases, and tend to specialize in a certain category of cases. Arbitration and community mediation tend to be used primarily for civil matters, while restorative conferencing, victim-offender dialogue, and teen court exclusively focus on criminal cases.

The solutions also vary based on their theory of justice. Some seek simply to neutrally resolve disputes, like community mediation, some are distinctly restorative, like victim-offender dialogue and restorative conferencing, and some can be more punitive, like teen court.

What each of the solutions have in common is that they are a community program, offer services at free or reduced cost, and help two or more parties resolve conflicts or repair harms.

Community solutions to justice are community programs.

There are, very broadly, three ways to address a social problem in the United States. One is through a government program or agency. The second is by creating a for-profit business. The third is to create a community organization or program. This can be an official nonprofit or an informal group of community members, it merely needs to be a voluntary organization of people working to solve a particular problem in a particular area. Given that it is incredibly difficult to identify informal programs, we only include nonprofit



organizations in this report, but community justice programs include any voluntary association or group of people resolving conflicts or repairing harms in a particular area.

Community solutions to justice offer free or reduced-cost services.

The second criteria for community solutions to justice is to offer free or reduced-cost services to those they serve. The value community solutions provide over for-profit services is that they are available to all, regardless

of financial situation. Thus, each community solution to justice must offer their services either for free or reduced cost - no one should be turned away for ability to pay. All the case studies in this report either offer free services or offer services on a sliding scale based on ability to pay, and none of them turn anyone away for financial reasons.



Community solutions to justice help two or more parties resolve conflicts or harms.

The final criteria for community solutions to justice is that they must perform the same service as the traditional court system - i.e. to help two or more parties resolve disputes or address harms. While the criminal and civil justice systems are common terms that include the police, courts, correctional facilities, and rehabilitation programs, and

many community solutions to justice include elements of other parts of the justice system, the fundamental service they provide is to resolve disputes and address harms between two or more parties.

It is also important that the solution addresses harms between two or more parties. Since the primary role of the courts is to be the neutral arbitrator between disputants, we do not include solutions that focus on a single individual, such as conflict coaching or counseling, under the heading of community solutions to justice.

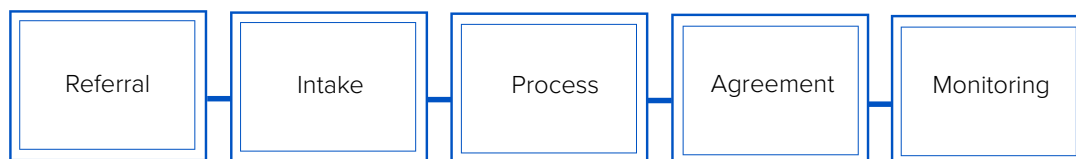
How do Community Solutions to Justice Work?

While traditional justice may vary slightly from state to state and community to community, the process itself is fairly standardized. A judge presides and the parties, either alone or represented by counsel, present their case. Then, after hearing the facts, either a judge or jury decides the outcome, and hands down the appropriate remedy.

Community justice programs, on the other hand, are often incredibly varied and adapted to meet the community's needs. Many community justice programs adopt local customs or practices in their mediations.

Community justice programs often partner with other community programs to provide additional services or treatment to those involved in disputes or harms. The exact process for each community mediation program can vary from community to community and organization to organization.

However, for simplicity's sake, we'll attempt to broadly generalize the community justice process. Many community justice programs follow the following 5 steps: referral, intake, process, agreement, and monitoring.





Referral

The first step in the community justice process is a case referral. Cases can come directly from members of the public, often called community cases, or from law enforcement, court officials, or attorneys. A community justice organization may also have a formal agreement with a prosecutor's office or police department so that certain cases are automatically referred. The referrer contacts the community justice agency with a case and requests that it be added to their docket.

Intake

The second step is to go through the community justice organization's intake. Many community justice programs have limitations on the type of cases they will accept, such as limitations on criminal cases, second offenses, adult offenders, or violent crimes. Program staff will review the case and either accept the case and assign it to the appropriate staff member or volunteer, or reject the case and send it back to the referring agency. Since community justice programs are voluntary, this process often involves

reaching out to the other party in the case to get their consent to participate in the program.

Process

Once all parties consent to participate, the third step is to undergo the community justice process. This varies significantly by organization and program type. Typically, these processes are designed to hear both parties to the case out and develop points of agreement. In many community justice programs, a volunteer can “stand-in” and represent any of the parties that don’t wish to participate. When the process has been completed, the community justice program will move to agreement.

Agreement

The fourth step in community justice is to develop an agreement or contract to resolve the dispute or repair the harm. These agreements vary by the type of community justice solution. In community mediation, which is typically used to handle civil cases, mediators help the parties craft an agreement together. This agreement is then signed by both parties

and considered legally binding. In restorative conferencing, a “restorative contract” is developed by the offender detailing how they will restore the victim, and signed off by both parties. In arbitration, the arbitrator develops the agreement, or award, which is then legally enforceable on the losing party.

Monitoring

After the agreement is complete, the community justice organization will typically monitor the fulfillment of the agreement. The intensity of this monitoring depends on the program and type of case. For civil cases, the community justice organization may follow up after a determined period of time to ensure the agreement was fulfilled. For criminal cases, the community justice organization

5 Community Solutions to Justice

Our research identified 5 main community solutions to justice: arbitration, community mediation, restorative conferencing, victim-offender dialogue, and teen court, utilized by nonprofits in the United States today.

Arbitration

States: **New York, North Carolina, Texas**
Estimate of Active Community Programs: **7**
Estimated Cases per Year: **300**
Case Types: **Lemon law, family**

The arbitration process is incredibly similar to the traditional justice system, with one key exception - the parties choose the judge. Instead of being assigned a judge by a court, the parties may choose an organization, an individual, or a group of individuals as neutral arbitrators of the case. However, it is in minimal use in the community. Currently, there are only 7 community justice programs that address arbitration, located in New York, North Carolina, and Texas.

While arbitrations are less formal than traditional justice, a typical arbitration consists of 4 steps. First, parties choose an arbitrator. The arbitrator can be a judge, lawyer, and legal professional, but they can also be an expert in an industry or just a trusted neutral party. Then, after the arbitrator is chosen, the parties will agree to the rules of the arbitration. Parties will then hold hearings and present evidence and testimony to the arbitrator. Finally, when the arbitrator has heard all the evidence presented by each party, they will render a decision, often called an award.

While private arbitration is commonly used in consumer claims, employment disputes, and commercial cases, community arbitration programs focus mostly on volatile cases like lemon law (car sales) and divorce. Total caseload is difficult to estimate. One report from the New York State Unified Court system indicated that New York community mediation centers had handled 250 arbitrations from 2018-2019¹. Working off of that data, we estimate that community arbitration programs handle a small number of total cases, about 300 per year. We were unable to evaluate a case study for arbitration.

Community Mediation

States: **Arizona, Arkansas, California, District of Columbia, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming.**
Estimate of Active Community Programs: **150**
Estimated Cases per Year: **400,000**
Case Types: **Small claims, tort, general civil, criminal misdemeanor**

¹ *Rep. Cmunity Dispute Resolution Program*. New York State Unified Court System. 4. Accessed January 29, 2023. <https://ww2.nycourts.gov/sites/default/files/document/files/2020-10/CDRC%20Annual%20Statistical%20Report%202018-2019.pdf>.

Community mediation is the most widespread community solution to justice in the United States today, with 150 programs across 38 states. It is also the only solution with a community trade association, the National Association For Community Mediation (NAFCM), that provides technical assistance to community mediation centers and helps start up new programs.²

Community mediation is one of the least structured solutions to conflict resolution, with few formal rules. Mediation cases span the spectrum from entirely voluntary, where community members bring their disputes directly to community mediators, to entirely mandatory, where courts order mediation before a formal court process can be initiated.

Mediations generally follow four phases. First, the mediator will contact both parties and arrange a mediation to hear both sides out. Secondly, the mediator will set an informal, non-confrontational tone and explain the process. Next, the mediator will hear the stories of both participants and try to find some common ground. Finally, the process usually ends with an agreement between the parties to remedy the situation. NAFCM has

9 hallmarks for community mediation centers that also include being accessible, low-cost, inclusive, and timely.³

Community mediation programs primarily handle civil cases, including small claims, family, and tort cases, though a few programs also address criminal misdemeanors. A report from the JAMS foundation indicated that community mediation programs handle over 400,000 cases per year.⁴ We were able to evaluate two case studies for community mediation.

Restorative Conferencing

States: **California, Colorado, Delaware, Georgia, Kansas, Maine, Maryland, Michigan, Minnesota, Nebraska, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, Wisconsin, Wyoming**
Estimate of Active Community Programs: **32**
Estimated Cases per Year: **2,500-3,200**
Case Types: **Criminal misdemeanors**

Restorative conferencing is an attempt to implement indigenous practices into the crimi-

² National Association for Community Mediation - NAFCM. Accessed January 30, 2023. <https://www.nafcm.org/default.aspx>.

³ 9 Hallmarks of Community Mediation Centers. NAFCM. Accessed May 12, 2022. <https://www.nafcm.org/?page=9Hallmarks>.

⁴ Community Mediation Basics. Resolution Systems Institute. Accessed May 12, 2022. <https://www.aboutrsi.org/special-topics/community-mediation-basics#:~:text=What%20is%20Community%20Mediation%3F,confrontation%2C%20prolonged%20litigation%20or%20violence>.

nal justice system. It started by implementing a Maori practice, the whanau or “family circle,” into New Zealand’s youth justice system, and didn’t spread to the United States until the early 1990’s.

The conference is a structured meeting between victims, offenders, and both parties’ family and friends, in which they discuss the consequences of a crime and decide together how to address the harm⁵. It is managed by a facilitator who contacts both parties after an offense, arranges the conference, and facilitates the parties through each stage. Towards the end of the conference, the parties sign a restorative contract, an agreement that outlines specific things the offender will do to repair the harm caused.

We were able to identify 32 active restorative conferencing programs in 19 states, and evaluate one case study. These programs exclusively handle criminal cases, typically youth, first-offense misdemeanors. No recent estimates of restorative conferencing cases exist. However, given that our case study handles 80-100 cases per year, applying that to all 32 programs gives an estimate of 2,500-3,200 cases per year.

Victim-Offender Dialogue

States: California, Delaware, Maryland, Missouri, Nebraska, New Mexico, Pennsylvania, Washington

Estimate of Active Community Programs: 12

Estimated Cases per Year: 720-960

Case Types: Criminal misdemeanor, Criminal felony

Victim-offender dialogue is a community justice approach targeted at more serious crimes. Studies have shown VODs used for burglaries, armed robberies, and violent assaults. Victim-offender dialogue has even been used for victims of a sniper attack.⁶

In many cases, a victim-offender dialogue may replace a standard criminal trial, though the victim has the opportunity to take the case to court if the outcome is unsatisfactory. In most programs, the VOD is initiated by the victim, though they can also be initiated by the prosecuting attorney and, in some cases, offenders as well.

A VOD typically consists of four steps. First, an agency will receive a referral from the victim, offender, or court official such as a

⁵ Wachtel, T. (2016). *Restorative Conference. Defining Restorative*. International Institute for Restorative Practices. <https://www.iirp.edu/defining-restorative/restorative-conference>.

⁶ Umbreit, Mark S. (1989). *Violent Offenders and Their Victims*. In *Mediation and Criminal Justice* (M. Wright and B. Galaway, eds) pp. 99-112. Sage; London.

prosecutor. Secondly, the agency will check with both the victim and the offender to see if they would like to proceed with the dialogue process. If both agree, then the agency holds preparatory meetings with the victim and offender as well as support persons. The victim is prepared to tell their story and to consider what would help repair the harm. The offender is walked through taking responsibility for their actions and listening to the victim. Then, the agency schedules a dialogue between the victim, offender, and support persons, after which an agreement is signed listing out what the offender will do to repair the harm they caused. Finally, the agency monitors the agreement to completion, and when complete, contacts the court to have the charges removed from the offender's record.

We identified 12 VOD programs in 8 states, and evaluated one case study. Our case study currently only handles misdemeanors and minor felonies, but there are no limitations on the type of cases that can enter the program. Recent third-party estimates of community VOD program case numbers do not exist. Given our case study handles 60-80 cases a year, our estimate is that community VOD programs handle 720-960 cases per year.

Teen Court

States: California, Florida, Indiana, New Mexico, New York, North Carolina, Tennessee, Virginia

Estimate of Active Community Programs: 16

Estimated cases per year: 110,000-125,000

Case Types: Criminal misdemeanor

Teen court is a peer-justice approach to community justice. Teens serve as the court clerks, bailiffs, attorneys, jurors, and sometimes as judges. The underlying concept is that teens are more likely to respect a sentence handed down by their peers than one handed down by an adult judge or jury in the traditional juvenile justice system.

Teen courts generally follow a five-step process. First, the teen offender is diverted from the traditional juvenile justice system to a teen court. Secondly, the offender and their parent or guardian participate in an intake meeting where the offense is discussed, the teen court process is explained, and in some cases the teen undergoes psychological and/or alcohol and drug evaluations. Third, the teen participates in a hearing in front of a jury of their peers where they are asked questions about their offense and able to answer. Fourth, the teen jury hands down a sentence to the offender and a contract is signed indicating how the offender will repair the harm. Fifth, the contract is monitored and, if completed, the offender's charges are removed from their record. We were able to

identify 16 community teen court programs in 8 states, and one case study, though teen courts are likely far more widespread than that. Teen courts primarily deal with minor, first offense criminal misdemeanors like vandalism, simple assault, and theft. A 2011 teen court guide by the American Bar Association estimated that over one thousand teen courts see 110,000-125,000 youth offenders each year⁷, though that likely includes teen court programs run by traditional courts and not just community programs.

Community justice programs offer numerous potential benefits for speedier, fairer, and more effective justice, including faster case processing, reduced costs, increased compliance, a higher perception of fairness, and reduced recidivism. They can address a wide variety of cases, from civil to criminal, and can often deliver better outcomes for victims, offenders, and court officials than traditional justice processes.

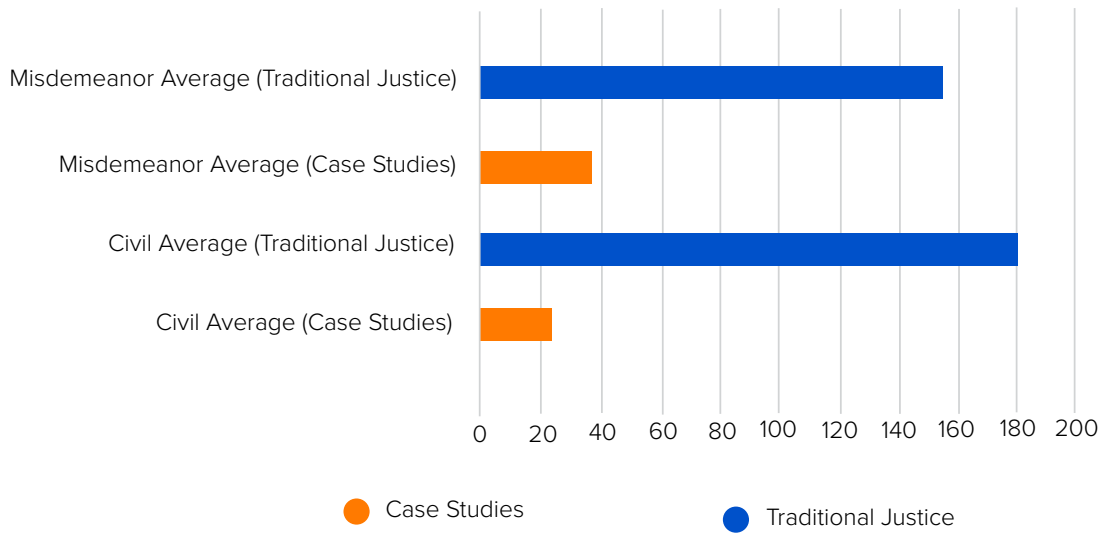
However, community justice programs also have some important limitations, such as the type of cases and caseloads they can address, few standard protections and rules, and may carry a risk of victimization for a limited number of cases.

7 Rep. American Bar Association. (2011). *Youth Cases for Youth Courts: A Guide to the Typical Offenses Handled by Youth Courts*. ii. <https://www.ojp.gov/pdf-files1/ojjdp/237388.pdf>.



Benefits and Drawbacks of Community Solutions to Justice

Case Time to Disposition



Community justice programs offer numerous potential benefits for speedier, fairer, and more effective justice, including faster case processing, reduced costs, increased compliance, a higher perception of fairness, and reduced recidivism. They can address a wide variety of cases, from civil to criminal, and can often deliver better outcomes for victims, offenders, and court officials than traditional justice processes.

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Benefits of Community Solutions to Justice

Faster Case Processing

One of the most significant benefits of community solutions to justice may be faster case processing. The average processing time for misdemeanor cases is 156 days, the average processing time for felony cases is 256 days⁸, and National Center for State Courts standards are 180 days for general civil cases (since no recent studies of state civil case processing time exist).⁹ These delays leave both victims and the accused waiting for justice.

8 Ostrom, Brian & Hamblin, Lydia & Schauffler, Richard & Raaen, Nial. (2020). 14-15. *Timely Justice in Criminal Cases: What the Data Tells Us*. 7. https://www.ncsc.org/__data/assets/pdf_file/0019/53218/Timely-Justice-in-Criminal-Cases-What-the-Data-Tells-Us.pdf.

9 Ostrom, Brian & Hamblin, Lydia & Schauffler, Richard & Raaen, Nial. (2020). *Timely Justice in Criminal Cases: What the Data Tells Us*. 3. https://www.ncsc.org/__data/assets/pdf_file/0019/53218/Timely-Justice-in-Criminal-Cases-What-the-Data-Tells-Us.pdf.

Community justice programs can help parties get speedier justice. One study of consumer arbitration by the Consumer Financial Protection Bureau found that while the average time to settlement for a class action in federal court was nearly two years, and the average time to settlement in state court was over one year, the average time to settlement for arbitration cases was two to five months. In 2003, New York community mediation centers reported an average case processing time of only 18 days. The case studies in this report process cases in 35-60 days, 2-5x faster than national averages.

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Reduced Costs

While minimal research on case costs exists,

there is research indicating that community justice can be more cost-effective than traditional justice. One 1985 study made a direct comparison between mediation cases and adjudicated cases, finding that the average case processing costs for the Durham, NC court system were \$186, while cases processed by the Durham Dispute Resolution Center only cost \$72.¹¹

Other studies have looked at the potential cost savings from community justice. A 2004 California study estimated that the community mediation programs would save \$1.4 million in San Diego, \$395,000 in Los Angeles, and \$9,770 in Sonoma based on averted judges' salaries.¹² One meta-review of restorative conferencing found that conferencing reduced the costs of crime to communities by between 3.7x and 8.1x more than the cost of the conferences.¹³

Increased Compliance with Judgements

A somewhat surprising benefit of community justice is that, despite being a voluntary process, community justice can create increased compliance with judgements. In one study of small-claims cases in Maine, only 34% of judgments reached in court were paid in full, compared to 71% of cases resolved by community mediation.¹⁴ Another study of a court-connected mediation

10 Rep. *Arbitration Study*. 326. Consumer Financial Protection Bureau, March 2015. https://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf.

11 Sheppard, B., *Report to Durham Dispute Settlement Center on the Comparative Costs of Going to Court vs. Mediation*. Durham, North Carolina. Duke University. 1985.

12 Rep. *Evaluation of the Early Mediation Pilot Programs*. Judicial Council of California. Administrative Office of the Courts. February 27, 2004. XXII. <https://www.courts.ca.gov/documents/empprept.pdf>.

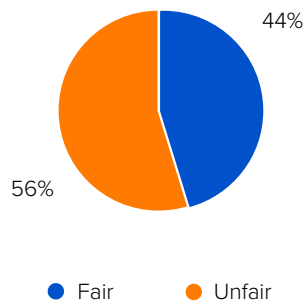
13 Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. *Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review*. *J Quant Criminol* 31, 1–24 (2015). <https://doi.org/10.1007/s10940-014-9222-9>.

14 McEwen, Craig A, and Richard J Maiman. *Small Claims Mediation in Maine: An Empirical Assessment*. RSI. Resolution Systems Institute. Main Law Review, January 1, 1981. <https://www.aboutrsi.org/library/small-claims-mediation-in-maine-an-empiri>

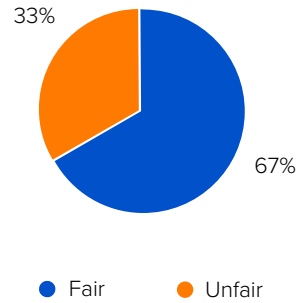
Perceived Fairness

Nº 28

Traditional Justice



Community Justice



program found that misdemeanors addressed through mediation were nearly 5 times less likely to return to court in the subsequent year than cases that went through the regular court process.¹⁵

Community justice can create increased compliance in criminal cases as well. A 2004 meta-analysis of victim-offender dialogue (VOD) found that nearly 90% of VODs resulted in an agreement, while an average of around 80-90% of those contracts were completed.¹⁶ One study in California looked at the amount of restitution paid by youth offenders who went through a VOD as opposed to youth that went through traditional justice practices, and found increases from 95% (Sonoma County) to over 1,000% (Los

Angeles County) increase in restitution paid to victims.¹⁷

Higher Perception of Fairness

While fairness is incredibly subjective, participants in community justice often find the process fairer than traditional justice. A study of community mediation in Brooklyn found that both complainants (77%) and respondents (79%) found mediation outcomes a fairer process for all involved, as opposed to only 56-59% of complainants and respondents who went through a standard court process.¹⁸ In the aforementioned comparative study of three small claims courts in Maine, parties thought the judgment was fair

cal-assessment.

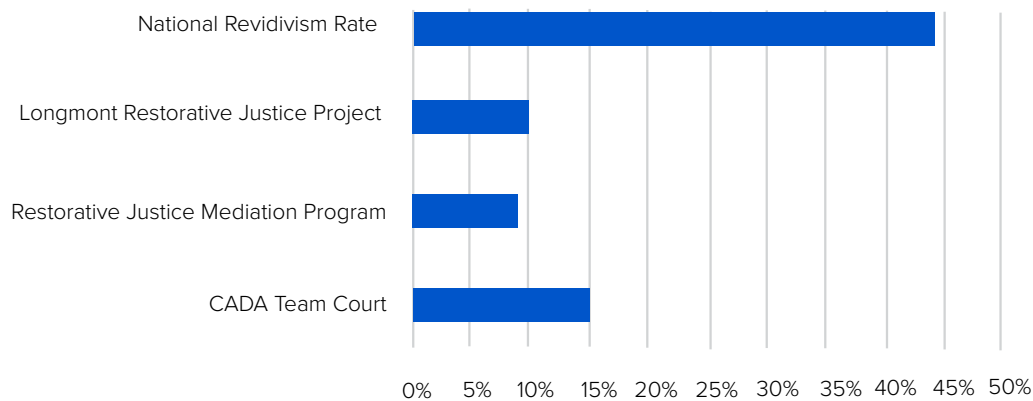
15 Charkoudian, Lorig, Jamie Walter, Caroline Harmon-Darrow, and Justin Bernstein. *Mediation in Criminal Misdemeanor Cases*. *Criminology, Criminal Justice, Law & Society* 22, no. 3 (2021). <https://doi.org/10.54555/ccjls.3769.30144>.

16 *Ibid.*

17 Evje, Audrey, and Robert C Cushman. *Rep. A Summary of the Evaluations of Six California Victim Offender Reconciliation Programs*. The Judicial Council of California Administrative Office of the Courts, May 2000. <https://www.courts.ca.gov/documents/vorp.pdf>.

18 McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S. Department of Justice, July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

1-Year Recidivism Rate



in only 23.5% of adjudicated cases, while 44% thought it was fair in mediated cases.¹⁹ The difference was even starker with crime victims. In a study of burglary victims in Minneapolis, MN, 80% of burglary victims who participated in a victim-offender dialogue with their offender found the process fair, compared to only 37% of burglary victims that went through traditional justice.²⁰ A preliminary report of restorative conferencing in Washington County, MN found that 100% of the victims were satisfied with the process, and 80% thought it was fair for offenders as well.²¹

Reduced Recidivism

Perhaps the most significant benefit of community justice in criminal cases is reduced recidivism (the likelihood of an offender to reoffend). While national recidivism rates hover at approximately 44% within the first year,²² several studies and our case studies have significantly lower recidivism rates, a sign of effective justice. One meta-analysis of 25 restorative conferencing programs, including nearly 12,000 youth offenders, found that restorative conferencing reduced recidivism

19 McEwen, Craig A, and Richard J Maiman. *Small Claims Mediation in Maine: An Empirical Assessment*. RSI. Resolution Systems Institute. Main Law Review, January 1, 1981. <https://www.aboutrsi.org/library/small-claims-mediation-in-maine-an-empirical-assessment>.

20 Umbreit, Mark S. (1989) *Crime Victims Seeking Fairness, Not Revenge: Towards Restorative Justice*. Federal Probation, Volume 53, Issue 3. 52-57. <https://www.ojp.gov/pdffiles1/Digitization/119864NCJRS.pdf>

21 Umbreit, M., & Fercello, C. (1997). *Interim report: Client evaluation of the victim/offender conferencing program in Washington County (MN)*. Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota.

22 Alper, Mariel, Matthew R Durose, and Joshua Markman. Rep. *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014)*. 1. U.S. Department of Justice, May 2018. <https://bjs.ojp.gov/content/pub/pdf/18upr9y-fup0514.pdf>.

among youth offenders by an average of 26%.²³ Our case studies have recidivism rates from 8.5%-15%, 3-5x lower than the national average.

Higher Rates of Satisfaction

More so than any individual effect, community members also report being highly satisfied with community justice overall, particularly when compared to traditional justice. Numerous studies have reported satisfaction rates with community mediation being between 80-90%. An evaluation of 12 different restorative conferencing sites in Minnesota found that victim satisfaction with the process and outcome hovered between 93% and 95%.²⁴ Satisfaction with victim-offender dialogue is also high, hovering between 80-90% for both victims and offenders.

There are few comparative studies, but they also tend to favor community justice. In the 1980 field test of Neighborhood Justice Centers in Atlanta and Kansas City, only 33% and 42%, respectively, of parties indicated that the courts had handled their case well. In contrast, 80% of participants in Neighborhood Justice Center mediations indicated they were satisfied with their mediation.²⁵

Community justice can also provide a host

of other benefits, such as changed attitudes towards offenders, victims, and the justice system, reduced mental issues for victims, better community policing, and reduced likelihood of conflicts returning to court.

Drawbacks of Community Solutions to Justice

Case Type Limitations

The most significant drawback to community justice programs is that they currently handle a limited set of case types. While community justice programs handle most civil case types, they do not currently address large civil litigation cases, such as class actions or large corporate lawsuits. Community justice programs handle an even more limited number of criminal cases, with most community justice programs focusing on youth, first-offense, and nonviolent criminal cases. All the criminal programs we reviewed also required the accused to take responsibility before participating.

These limitations often mean that community justice programs do not address victimless crimes, such as traffic or substance abuse cases, cases where the accused pleads

23 Bradshaw, B., Roseborough, D. (2005). *Restorative Justice Dialogue: The impact of mediation and conferencing on juvenile recidivism*. Federal Probation, 69 (2), 18. https://ir.stthomas.edu/cgi/viewcontent.cgi?article=1028&context=ssw_pub.

24 Umbreit, M., Fercello, C., & Umbreit, J. (1998). *National survey of victim offender mediation programs in the US. Draft prepared for the Office for Victims of Crime*. U.S. Department of Justice. Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota.

25 McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S. Department of Justice, July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

innocent, and felony or violent criminal cases, which in most situations would still need to be handled by a traditional court.

Caseload Limitations

Another significant drawback, possibly due to the fact that community justice is so little-known, is that community justice programs often take on only a small portion of the traditional caseload. About half of our case studies handled caseloads under 10% of the local courts. While there have been exceptions (Such as in New York, where a network of community mediation centers became the primary forum for addressing New York City small claims cases) this typically means that community justice programs can only take a limited amount of cases off of the hands of a traditional court.

Limited Protections and Rules

Another drawback is that there are few legal protections and rules for those in community justice programs. This can also be a benefit, as it allows for more innovative and creative approaches to justice. However, the downside is that participants in community justice programs are often not afforded many of the protections that strict rules of discovery and evidence, right to counsel, right not to self-incriminate, and others provide in traditional court. This can make community justice programs unsuitable for adversarial cases or those with higher stakes, like violent felonies.

Revictimization

The final drawback is that, because most community justice programs bring both parties together to attempt to achieve a resolution, there is a risk of revictimization. Studies have found that in domestic violence cases community mediation may not resolve the harm, and instead contribute to the cycle of abuse. In victim-offender dialogue, victims of particularly violent crimes have been revictimized by facing those they accuse of perpetrating those crimes. In these cases, community justice may not be the appropriate forum for resolving the harm.

Solution #1- Arbitration

Introduction to Arbitration

States: **New York, North Carolina, Texas**

Estimate of Active Community Programs: **7**

Estimated Cases per Year: **300**

Case Types: **Lemon law, family**

Arbitration is the oldest community solution to justice in the United States, but little utilized in the community today. While Native Americans used arbitration to settle disputes between neighboring tribes, it did not catch on with early American colonists until travelers from Europe brought the practice, already used heavily in maritime trade, to the colonies. Total case numbers are difficult to obtain, our research indicates that there are at least 7 community arbitration programs active today, which arbitrate around 300 cases per year.

Arbitration is incredibly similar to the traditional justice system, with one key exception - the parties choose the judge. Instead of being assigned a judge by a court, the parties may choose an organization, an individual, or a group of individuals as neutral arbitrators of the case. Arbitration is primarily used today for consumer claims, employment disputes, and commercial cases.

While arbitrations are less formal than traditional justice, a typical arbitration consists of 4 steps. First, parties choose an arbitrator. The arbitrator can be a judge, lawyer, and legal professional, but they can also be an expert in an industry or just a trusted neutral party. Then, after the arbitrator is chosen, the parties will agree to

the rules of the arbitration. Parties will then hold hearings and present evidence and testimony to the arbitrator. Finally, when the arbitrator has heard all the evidence presented by each party, they will render a decision, often called an award.

Because arbitration is a private process, research on the benefits and drawbacks is incredibly limited. However, some limited research indicates that arbitration is faster and more cost-effective than traditional justice processes. Some drawbacks of arbitration included that there are fewer standard rules than civil litigation, and that the process is nontransparent and thus less viable for public interest cases.

History of Arbitration

Arbitration is the oldest approach to community justice in the United States. While Native Americans used arbitration to settle disputes between neighboring tribes, it did not catch on with early American colonists until travelers from Europe brought the practice, already used heavily in maritime trade, to the colonies. The first state to recognize arbitration as a legal procedure for dispute resolution was Massachusetts in 1632.²⁶ History of Community Justice in the United States

26 Ibid.



Arbitration also played a key role in early America. In one of the last attempts to avoid the revolutionary war, a group of colonists led by John Dickinson created the Olive Branch Petition, which pledged loyalty to King George III and asked him to choose arbitration over bloodshed.²⁷ The King refused to even read the petition, which led to a committee of the Continental Congress drafting the Declaration of Independence in 1776.

In the aftermath of the Civil War, disputes between former slaves and slave owners were common, and would often be resolved via three-man arbitration panels. Arbitration was also used to address the Alabama Claims, the claims for damages the United States sent to Britain after British shipyards helped build confederate warships during the war. Britain ultimately ended up paying the U.S. a \$15.5 million arbitration award for her role in creating the ships.²⁸

After the Civil War, arbitration took off in American industry. In 1871, the New Orleans Cotton Exchange adopted arbitration for the resolution of its disputes. The New York Stock Exchange adopted arbitration for disputes between members shortly afterward. In 1902, President Franklin Theodore Roosevelt used arbitration to resolve one of the nation's most crucial miners' strikes - the Philadelphia and Reading Iron Company strike.²⁹

As the industrial revolution continued, arbitration became more and more common. In 1925, Congress passed the Federal Arbitration Act to express support for and remove judicial barriers to the practice. One year later, Moses Grossman and Charles Bernheimer founded the American Arbitration Association (AAA), still the primary provider and promoter of arbitration in the United States.³⁰

Since most arbitrations are private, it is

27 *Petition to the King*. Journals of the Continental Congress 1774-1779 2 (July 8, 1775): 158–72. https://avalon.law.yale.edu/18th_century/contcong_07-08-75.asp.

28 *The Alabama Claims, 1862-1872*. U.S. Department of State. U.S. Department of State. Accessed January 29, 2023. <https://history.state.gov/milestones/1861-1865/alabama>.

29 Certilman, Steven A. *Throw Down the Muskets, Seek Out the Town Elders: This Is a Brief History of Arbitration in the United States*. New York Dispute Resolution Lawyer 3, no. 1 (2010): 10–13.

30 *Ibid.*

difficult to accurately estimate the number of arbitrations performed in the United States each year. However, the AAA and its counterpart, the International Center for Dispute Resolution, release business arbitration statistics each year. In 2021, these two organizations alone arbitrated nearly 10,000 disputes with over \$15 billion in claimed damages.³¹ Community arbitration statistics are even more difficult to obtain, but one report from the New York State Unified Court system indicated that New York community mediation centers had handled 250 arbitrations from 2018-2019.³² Our research indicates that there are at least 7 community arbitration programs active today.

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31 Rep. *2021 B2B Dispute Resolution Infographic*. American Arbitration Association. Accessed January 29, 2023. https://www.adr.org/sites/default/files/document_repository/2021_B2B_Infographic.pdf.

32 Rep. *Community Dispute Resolution Program*. New York State Unified Court System. 4. Accessed January 29, 2023. <https://ww2.nycourts.gov/sites/default/files/document/files/2020-10/CDRC%20Annual%20Statistical%20Report%202018-2019.pdf>.

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How Arbitration Works

The arbitration process is incredibly similar to the traditional justice system, with one key exception - the parties choose the judge. Instead of being assigned a judge by a court, the parties may choose an organization, an individual, or a group of individuals as neutral arbitrators of the case. Once the arbitrator or arbitrators have been chosen, the parties will agree on the rules that bind that particular arbitration. Arbitration is primarily used today for consumer claims, employment disputes, and commercial cases.

Arbitrations typically follow the following steps:

1. Choosing an arbitrator - Once parties have agreed to start arbitration, they will choose an arbitrator or arbitrator(s) for their dispute. The

parties can choose an organization with existing rules for arbitration, like the AAA or Judicial Arbitration and Mediation Services, Inc. (JAMS) or an individual arbitrator. This arbitrator does not have to be a judge, lawyer, or legal professional, and can instead be an expert in an industry or just a trusted neutral party.

2. Choosing arbitration rules - Organizations like AAA or JAMS may have existing arbitration rules,³³ but no specific set of rules is required. The parties can use existing rules or agree on their own rules of evidence and procedure for the arbitration.

3. Hearings - When the parties have agreed on rules and an arbitrator, they will introduce evidence and the arbitrator or arbitrators will hear testimony from each party. Hearings will continue until all the relevant evidence has been presented.

4. Awards - When the arbitrator(s) have heard all the evidence from each party, they will render a decision, often called an award, to the party they determine presented a better case.

Some arbitrations are binding, meaning they cannot be taken to a court after the arbitration is complete except under limited circumstances, such as fraud or collusion on the part of the arbitrator. Others are nonbinding, meaning that either party can reject the award and take the case to court after the arbitration is complete.³⁴

33 *ADR Clauses, Rules, and Procedures: Jams Mediation, Arbitration, ADR Services.* ADR Clauses, Rules, and Procedures | JAMS Mediation, Arbitration, ADR Services. Accessed January 29, 2023. <https://www.jamsadr.com/adr-rules-procedures/>.

34 Repa, Barbara Kate. "Arbitration Basics." [www.nolo.com](https://www.nolo.com/legal-encyclopedia/arbitration-basics-29947.html#:~:text=In%20binding%20arbitration%2C%20the%20arbitrator%27s,and%20demand%20a%20trial%20). Nolo, June 8, 2012. <https://www.nolo.com/legal-encyclopedia/arbitration-basics-29947.html#:~:text=In%20binding%20arbitration%2C%20the%20arbitrator%27s,and%20demand%20a%20trial%20>

Benefits of Arbitration Over Traditional Justice Approaches

SUPREME COURT



Short-term Benefits

Reduced Case Processing Times

The main benefit of arbitration is a significant reduction in case processing time. One study by the Consumer Financial Protection Bureau found that while the average time to settlement for a class action in federal court was nearly two years, and the average time to settlement in state court was over one year, the average time to settlement for arbitration cases was two to five months.³⁵

Reduced Case Costs

While this data may not apply to all arbitrations, arbitration may also be cheaper than filing a similar case in civil court. One report from the National Arbitration Forum from 2003-2004 indicated that consumers paid under \$50 per arbitration in filing fees, while businesses paid under \$150.³⁶ These are cheaper than civil filing fees in some states. However, fees for counsel may outweigh the savings in arbitration.

Drawbacks of Arbitration

There are also a few drawbacks of arbitration to note, including a lack of formal rules of evidence and a lack of public transparency.

Lack of Formal Rules of Evidence

Because arbitration often has few formal rules of evidence, parties may not have the information they might usually be entitled to in a civil court hearing. This can lead to “trial by surprise” and one party entering the proceedings without a clear understanding of the other party’s case, their evidence, or witnesses to be called.³⁷

Lack of Public Transparency

In contrast to court cases, arbitrations and their agreements are confidential. Therefore, these agreements do not create court precedents.³⁸ This may reduce the viability of arbitration for addressing disputes in which there is a significant public interest, such as constitutional challenges, class action lawsuits, and conflicts between individuals and governments.

35 Rep. *Arbitration Study*. Consumer Financial Protection Bureau, March 2015. https://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf.

36 Drazohal, Christopher R. *Arbitration Costs and Forum Accessibility: Empirical Evidence*. University of Michigan Journal of Law Reform 41 (2008): 818. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1299&context=mjlr>.

37 Stipanowich, Thomas J. *Rethinking American Arbitration*. Indiana Law Journal 63, no. 3 (1988)

38 Kaufmann-Kohler, Gabrielle. *Arbitral Precedent: Dream, Necessity, or Excuse?* The 2006 Freshfields Lecture. Lecture. Accessed January 29, 2023. <https://lk-k.com/wp-content/uploads/Arbitral-Precedent-Dream-Necessity-or-Excuse.pdf>.

Introduction to Community Mediation

States: **Arizona, Arkansas, California District of Columbia, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming.**

Estimate of Active Community Programs: **150**

Estimated Cases per Year: **400,000**

Case Types: **Small claims, tort, general civil, criminal misdemeanor**



Community mediation is the most widespread, and potentially the most promising, solution to delivering speedy, fair, and effective justice outside of traditional court processes. Created out of two separate movements in the 1960s, one to tackle the widespread inefficiencies and delays already present in the court system, and the other to moderate the rising urban violence that arose in the heat of the civil rights movement. Today, estimated 400 community mediation centers now mediate over 400,000 cases per year in the United States.³⁹

Community mediation is one of the least structured approaches to conflict resolution, with few formal rules. Mediation cases span the spectrum from entirely voluntary, where community members bring their disputes directly to community mediators, to entirely mandatory, where courts order mediation before a formal court process can be initiated.

Mediations generally follow four phases. First, the mediator will contact both parties and arrange a mediation to hear both sides out. Secondly, the mediator will set an informal, non-confrontational tone and explain the process. Next, the mediator will hear the stories of both participants and try to find some common ground. Finally, the process usually ends with an agreement between the parties to remedy the situation. The National Association for Community Mediation (NAFCM) has 9 hallmarks for community mediation centers that also include being accessible, low-cost, inclusive, and timely.⁴⁰

Studies indicate community mediation can significantly reduce case times and somewhat reduce processing costs, while increasing the satisfaction of all involved over traditional court processes. Some drawbacks, however, include concern over how mediation handles power dynamics and lack of public transparency

39 *Community Mediation Basics*. Resolution Systems Institute. Accessed May 12, 2022. <https://www.aboutrsi.org/special-topics/community-mediation-basics#:~:text=What%20is%20Community%20Mediation%3F,-confrontation%2C%20prolonged%20litigation%20or%20violence.>

40 *9 Hallmarks of Community Mediation Centers*. NAFCM. Accessed May 12, 2022. <https://www.nafcm.org/?page=9Hallmarks>.

in this approach. Many scholars argue that in situations with significant power dynamics, like domestic violence, mediation could ultimately continue the harm being caused instead of resolving the dispute. The lack of due process protections in mediation may also make it unsuitable for crimes in which the accused claims innocence.

History of Community Mediation

Community mediation in the United States arose out of two generally agreed upon, but separate, concerns. The first concern was with the overall efficiency of the judicial system. In 1965, the Johnson Administration's Commission on Law Enforcement and the Administration of Justice identified problems in court scheduling, management, and organization that resulted in some cases taking 3 months to reach a grand jury decision, with some serious crimes taking up to a year to go to trial. The commission did not mince words about these cases, saying they "made a mockery of bail decisions, were "unfair to the defendant," and "unfair to the community."⁴¹

Out of this commission, and a further report in 1976 by the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, rose a government-focused reform movement to bring formal mediation into the court system. Early efforts included the Philadelphia Municipal Court Arbitration Tribunal in 1969, the Columbus Night Prosecutors Program in 1971, which used law students to mediate cases, the Institute for Mediation and Conflict Resolution in Manhattan, and the Miami Citizen Dispute Settlement Program in 1975.⁴²

The second concern, which also developed in the early 1960s, was rising urban violence. In the heat of the civil rights movement, violent, racially-motivated confrontations at protests and marches were common, and members of Congress hoped that a community mediation approach could reduce the damage. In the 1964 Civil Rights Act, Congress created a little-known agency under the Department of Justice called the Community Relations Service (CRS).

41 United States Government Printing Office. *The challenge of crime in a free society: A report* § (1967). 154. <https://www.ojp.gov/sites/g/files/xyckuh241/files/archives/ncjrs/42.pdf>.

42 *Community Mediation Basics*. Resolution Systems Institute. Accessed May 12, 2022. <https://www.aboutrsi.org/special-topics/community-mediation-basics#:~:text=What%20is%20Community%20Mediation%3F,confrontation%2C%20prolonged%20litigation%20or%20violence>.

"It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce."

-1964 Civil Rights Act

The CRS was charged "to provide assistance to communities...in resolving [the] disputes, disagreements or difficulties relating to discriminatory practices based on race, color or national origin...."⁴³ According to oral histories of the CRS, agency mediators did just that, responding to thousands of civil rights disputes over the past 50 years, including the famous "Bloody Sunday" civil rights march in Selma, Alabama, the assassination of Martin Luther King, Jr., and the riots following the 1992 Rodney King verdict.⁴⁴

As the CRS focused on mediating racially-motivated conflicts from a federal level, organizations sprung up in communities across

the country to help mediate all manner of disputes at a local level. Early organizations included the Rochester American Arbitration Association Community Dispute Service Project, an organization dedicated to helping the community deal with changing racial balances, the Boston (Dorchester) Urban Court Program⁴⁵, a court-connected program in a rapidly integrating Irish-American neighborhood; and the San Francisco Community Board Program, which still exists today.⁴⁶

The biggest difference between these community mediation programs and the court-focused community mediation movement is that these community mediators saw mediation's role outside of the court system, not merely as an augment to it. This second movement of mediators saw mediation as a tool to create greater understanding among individuals and communities, help people take their power back from the government, and decentralize dispute resolution, and other forms of decision-making, back to the community.

The fruits of both of these mediation movements exist in America today. In the court-fo-

43 *Public Law*. Govinfo. Accessed May 12, 2022. <https://www.govinfo.gov/content/pkg/STATUTE-78/pdf/STATUTE-78-Pg241.pdf#page=27>.

44 Salem, Greta, and Richard Salem. *Civil Rights Mediation in the United States*. Civil Rights Mediation. Conflict Management Initiatives, 2007. http://civilrightsmediation.org/us_med.shtml.

45 *Community Mediation Basics*. Resolution Systems Institute. Accessed May 12, 2022. <https://www.aboutrsi.org/special-topics/community-mediation-basics#:~:text=What%20is%20Community%20Mediation%3F,confrontation%2C%20prolonged%20litigation%20or%20violence>.

46 *Community Boards*. Accessed May 12, 2022. <https://communityboards.org/>.

cused movement, Neighborhood Justice Centers, stretching from New York to Las Vegas, provide alternatives, primarily to youth, to being sentenced in a criminal court. From the community-focused movement, an estimated 150 community mediation centers now provide mediation services, and mediate over 400,000 cases per year.⁴⁷

How Community Mediation Works

Community mediation tends to be one of the least formal community solutions to justice. Some community mediation programs work directly with the courts and some work primarily outside of the courts. Some programs deal with civil cases, some with criminal cases, and many take disputes directly from the community.

Cases taken by community mediators, depending on the laws involved, span the spectrum from entirely voluntary to entirely mandatory. In entirely voluntary cases, where the parties are not legally obligated to participate in any way, parties choose to work with a community mediation center of their own accord to settle disputes. Examples might include marital disputes, neighborhood

disputes, and family quarrels, all of which are brought to the center before justice system involvement.

There are also mandatory cases. California mandates mediation for child custody and visitation cases.⁴⁸ Iowa requires mediation for debts of \$20,000 or more on agricultural property.⁴⁹ In many states, including Alabama, a judge can require parties to go through a mediation process before continuing their case in court.⁵⁰

From our research, the majority of mediation cases appear to fall into the category of mostly voluntary, i.e., both parties agree to mediate the dispute with a community mediator but may, if mediation fails, then seek remedies in court.

These cases fall into two categories. The first is diversion cases, where a ticket or citation has already been issued, and the parties are given the opportunity to divert from the court system to repair the harm in mediation. The second category consists of community cases, where the parties go directly to mediation to resolve their conflict, but if it fails, the parties will likely seek court involvement. Examples of this second kind of case might include small claims, divorce proceedings,

47 *Community Mediation Basics*. Resolution Systems Institute. Accessed May 12, 2022. <https://www.aboutrsi.org/special-topics/community-mediation-basics#:~:text=What%20is%20Community%20Mediation%3F,confrontation%2C%20prolonged%20litigation%20or%20violence>.

48 Winestone, Jennifer. *Mandatory Mediation: A Comparative Review of How Legislatures in California and Ontario Are Mandating the Peacemaking Process in Their Adversarial Systems*. Mediate, February 2015. <https://www.mediate.com/articles/WinestoneJ4.cfm>.

49 Tidgren, Kristine A. *Mandatory Agricultural Mediation in Iowa*. Center for Agricultural Law and Taxation. Iowa State University. July 27, 2016. <https://www.calt.iastate.edu/article/mandatory-agricultural-mediation-iowa>.

50 *Alabama Mandatory Mediation Act*. Alabama ADR. Alabama Center for Dispute Resolution, May 17, 1996. https://alabamaadr.org/web/roster-documents/med_Ala_Mand_Med_Act.php.

Open criminal activity that hasn't yet been charged.

The mediation process varies by state, community mediation program, and individual mediator style. However, after referral, the process often follows Marje Burdine's 4 stages of mediation:⁵¹

1. Set an informal tone - The mediator welcomes parties to the mediation and explains the process to participants.

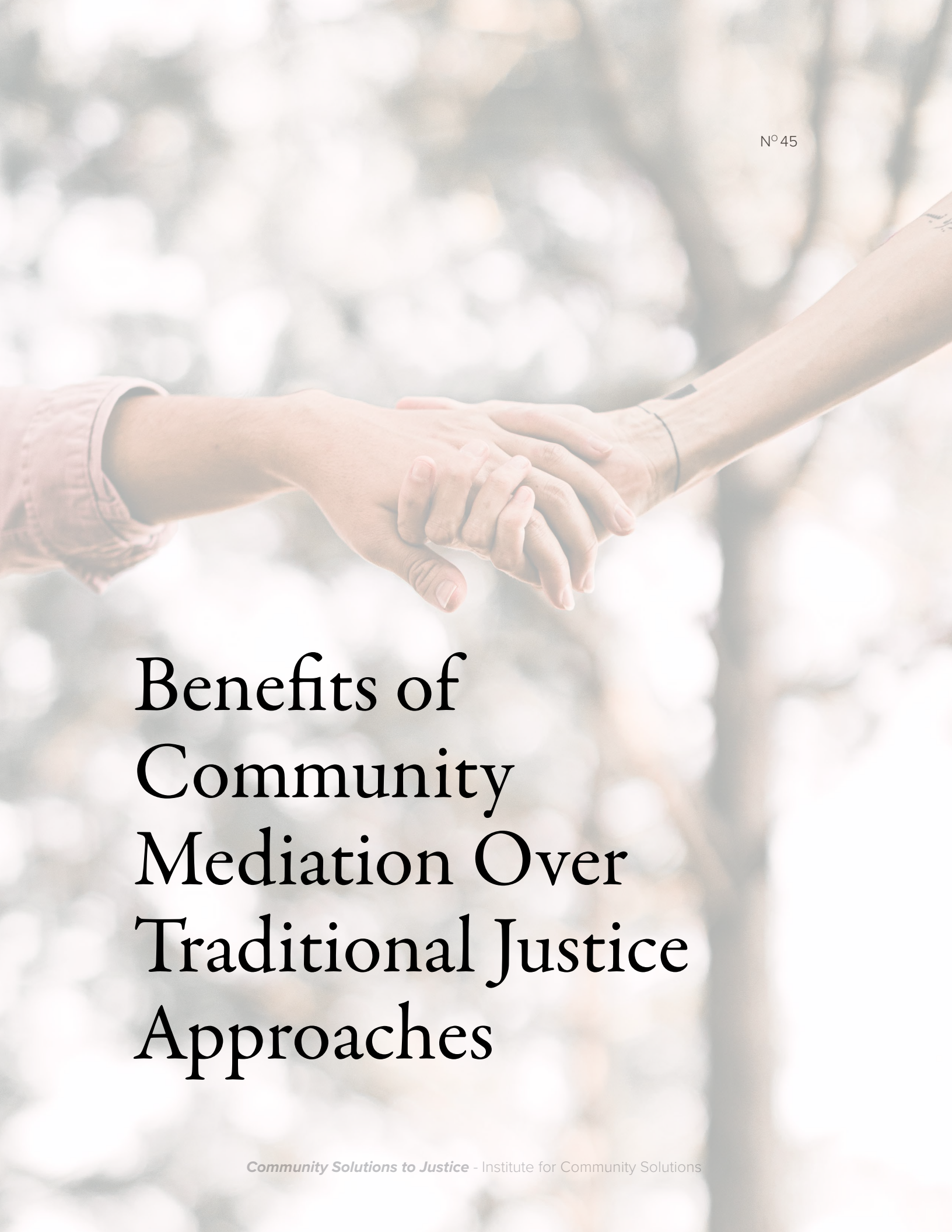
2. Ask for accounts - The mediator asks each party, in turn, to relate their account of the events. The mediator asks questions to clarify and understand the difference between the various parties' recounting of the events.

3. Establish common ground - The mediator attempts to establish commonalities between the parties over the case, including their interests, goals, and understanding of the events.

4. Reach agreement - Once the parties have all been heard and common ground established, the mediator works to create an agreement, usually legally binding, among the parties to resolve the dispute.

Some community mediation programs track the success of the agreement reached after a community mediation, and others simply rate the participants' satisfaction after the mediation has concluded.

51 Burdine, Marje (1990) *Mediation Skills Manual: "How to Mediate a Dispute."* Vancouver: The Centre for Conflict Resolution Training, Justice Institute of B.C.



Benefits of Community Mediation Over Traditional Justice Approaches

Community mediation appears to be the most promising candidate for speedy, fair and efficient justice. Limited research shows significantly reduced case processing times, costs, and an increased satisfaction with the process by all parties. Some studies even show greater likelihood for fulfilled agreements and reduced use of police services when community mediation is used. However, the lack of due process protections, public transparency, and the power imbalances present in mediations may limit the kinds of cases it can address.

Short-term Benefits

Reduced Case Processing Times

The starkest potential benefit of mediation is a significant reduction of case processing time. A 1979 study of five projects sponsored by the Florida Supreme Court found an average case processing time of 11 days for mediated cases.⁵² In 2002, the Michigan Community Dispute Resolution program reported a case disposition time of 24 days. In 2003, New

York community mediation centers reported an average case processing time of only 18 days.⁵³

Reduced Case Costs

The second potential benefit of mediation might be the same or lower processing costs per case, especially if the cases are being processed faster. Determining the exact costs of court processing is challenging, which makes comparing the direct costs of mediation to court difficult, and is an area which researchers agree requires further study.⁵⁴ One 1985 study, which did make a direct comparison, found that the average case processing costs for the Durham, NC court system were \$186, while cases processed by the Durham Dispute Resolution Center only cost \$72.⁵⁵

Other studies have looked at potential cost savings, instead of direct comparative analysis of case processing costs. A 2004 California study estimated that the community mediation programs would save \$1.4 million in San Diego, \$395,000 in Los Angeles, and \$9,770 in

52 *The Citizen Dispute Settlement Process In Florida: A Study of Five Programs*. OJP. Florida Supreme Court. Accessed May 12, 2022. <https://www.ojp.gov/pdffiles1/Digitization/58274NCJRS.pdf>.

53 Rep. New York State Unified Court System. Office of Alternative Dispute Resolution Programs. *Community Dispute Resolution Centers Program 2002-2003 Annual Report*. 1. <https://www2.nycourts.gov/sites/default/files/document/files/2018-07/AR02-03.pdf>.

54 Charkoudian, L. and Bilick, M. (2015), *State of Knowledge: Community Mediation at a Crossroads*. Conflict Resolution Quarterly, 32: 233-276. <https://doi.org/10.1002/crq.21112>

55 Sheppard, B., *Report to Durham Dispute Settlement Center on the Comparative Costs of Going to Court vs. Mediation*. Durham, North Carolina. Duke University. 1985.

Sonoma based on averted judges' salaries.⁵⁶ The Task Force on Appellate Mediation in 2001 estimated a savings of \$6.2 million total for all mediated cases in the sample size.⁵⁷

Increased Perception of Fairness

The impact of perceptions of fairness cannot be overstated. There are not enough police to enforce all of the laws, so it is the belief that the justice system is impartial and fair that realistically gives judgements their power. A study of community mediation in Brooklyn found that both complainants (77%) and respondents (79%) found mediation outcomes a fairer process for all involved, as opposed to only 56-59% of complainants and respondents who went through a standard court process.⁵⁸ In a comparative study of three small claims courts in Maine, parties thought the judgment was fair in only 23.5% of adjudicated cases, while 44% thought it

was fair in mediated cases.⁵⁹

Increased Party Satisfaction

Perhaps because of the quicker dispositions of justice, greater perceptions of fairness, or simply the ability to have one's story heard in a safe environment, party satisfaction after mediation is also starkly better than that for traditional adjudication.

Several studies have compared participant satisfaction with the courts as opposed to community mediation. In the 1980 field test of Neighborhood Justice Centers in Atlanta and Kansas City, only 33% and 42%, respectively, of parties indicated that the courts had handled their case well. In contrast, 80% of participants in Neighborhood Justice Center mediations indicated they were satisfied with their mediation.⁶⁰ Similar studies in North Carolina (90%+ satisfaction rate)⁶¹, Nebraska (89% satisfaction rate)⁶² and New York,

56 *Rep. Evaluation of the Early Mediation Pilot Programs*. Judicial Council of California. Administrative Office of the Courts. February 27, 2004. XXII. <https://www.courts.ca.gov/documents/empprept.pdf>.

57 Stufflebeem, Cory William, *A New Method to Evaluate Community Based Mediation Programs: MultiAttribute Cost Utility Analysis (2013)*. Electronic Theses and Dissertations. 632. <https://digitalcommons.du.edu/etd/632>.

58 McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S. Department of Justice, July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

59 McEwen, Craig A, and Richard J Maiman. *Small Claims Mediation in Maine: An Empirical Assessment*. RSI. Resolution Systems Institute. Main Law Review, January 1, 1981. <https://www.aboutrsi.org/library/small-claims-mediation-in-maine-an-empirical-assessment>.

60 McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S. Department of Justice, July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

61 Clarke, S H, E Valente, and R R Mace. *Mediation of Interpersonal Disputes: An Evaluation of North Carolina's Programs*. Office of Justice Programs, 1992. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mediation-interpersonal-disputes-evaluation-north-carolinas>.

62 *Nebraska Office of Dispute Resolution Annual Report, July 1994-June 1995*. OJP. Nebraska Office of Dispute

which found that 95% of those who reached agreement and even 63% of those who did not thought “mediation was a good way to attempt to resolve their dispute.”⁶³

Long-term Benefits

Increased Fulfillment of Judgments

Mediation also has some interesting longer-term benefits over traditional court processes. First, and somewhat surprising given the coercive nature of court agreements, is that mediation agreements can be more likely to be fulfilled. In the same small-claims study in Maine, only 34% of judgements reached through adjudication were paid in full, compared to 71% of mediated cases.⁶⁴ In a different study of divorce mediation, only 6% of participants in mediation reported having serious disagreements about their settlement, while 34% of participants in traditional court processes had serious disagreements.

Community Benefits

Reduced Use of Police Services

Mediations also appear to reduce future reliance on police resources. An unpublished 1995 study found that, after mediation, calls for police service in Harrisburg, Pennsylvania decreased sharply.⁶⁵ Harrisburg’s police chief corroborated this study in testimony before the Pennsylvania House of Representatives:

“Through the NDSC referral network [a network of community mediation centers], dealing with interpersonal and neighborhood problems has benefited the Harrisburg Police Bureau by fewer calls to the same persons; fewer prosecutions at the district justice courts; more available patrol time for emergencies; and an increased rapport between the police and the community for the utilization of this new, community-oriented solution to an old problem.”⁶⁶

Resolution, 1995. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/nebraska-office-dispute-resolution-annual-report-july-1994-june>.

63 *Community Dispute Resolution Centers Program*. NyCourts. New York State Unified Court System, 2003. <http://ww2.nycourts.gov/sites/default/files/document/files/2018-07/AR02-03.pdf>.

64 McEwen, Craig A, and Richard J Maiman. *Small Claims Mediation in Maine: An Empirical Assessment*. RSI. Resolution Systems Institute. Main Law Review, January 1, 1981. <https://www.aboutrsi.org/library/small-claims-mediation-in-maine-an-empirical-assessment>.

65 Shepherd, R., *Neighborhood Dispute Settlement: An Evaluation Report of the Neighborhood Dispute Settlement Center’s Program with the City of Harrisburg Bureau of Police*, 1995.

66 McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S.

Further, many of the cases that utilize a significant amount of police resources are personal. People in conflict who get the police involved may do so numerous times, taking up a significant amount of police resources. A 2005 study looked into the effect of mediation on these conflicts, and found that calls to the Baltimore Police Department for each case dropped by an average of about 9 calls per case in the six months after mediation for the group that had their cases mediated, compared to the control group.⁶⁷

Reduced Likelihood of Returning to Court

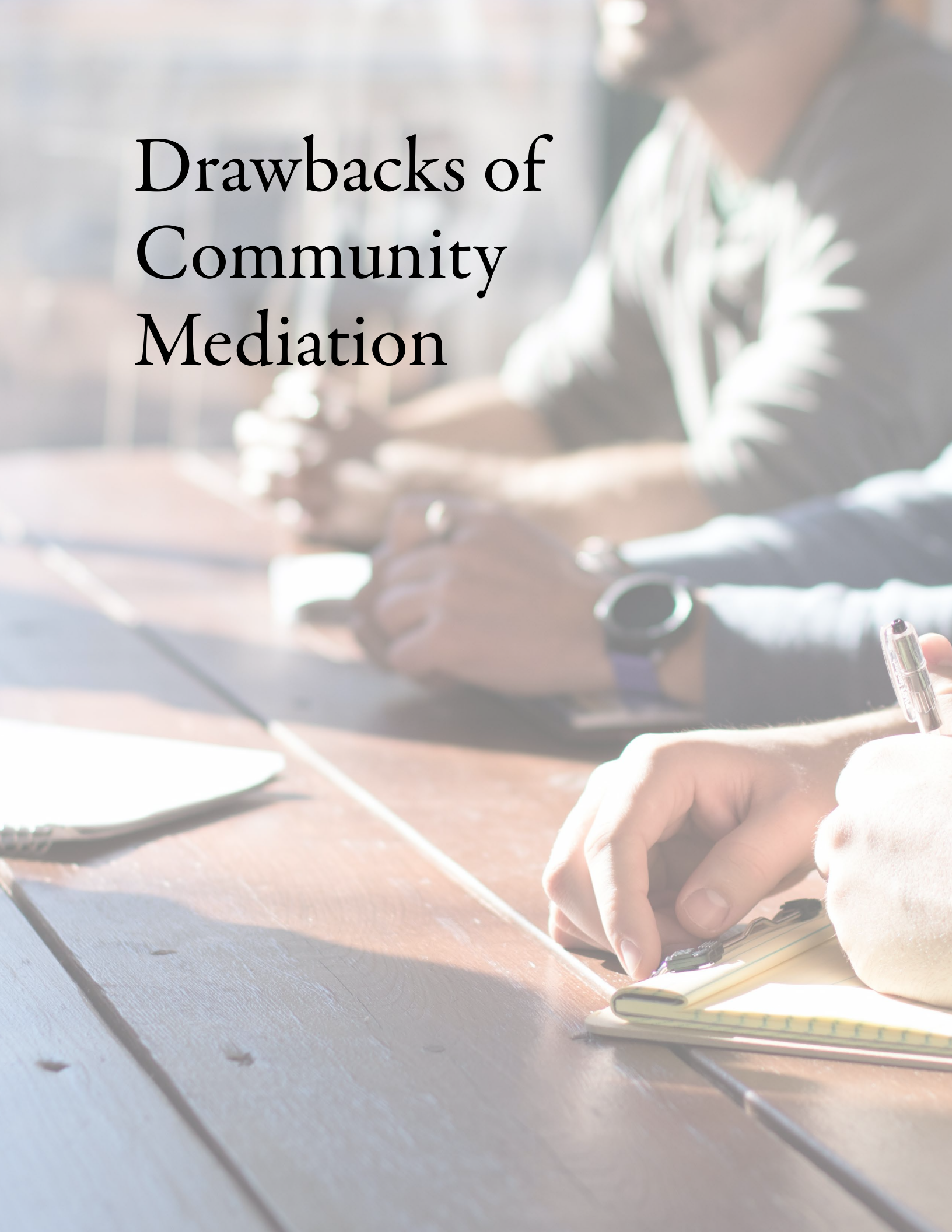
Perhaps most importantly, there is some evidence that mediation actually reduces the likelihood that a conflict will return to court. One study of a court-connected mediation program found that misdemeanors addressed through mediation were nearly 5 times less likely to return to court in the subsequent year than cases that went through the regular court process.⁶⁸

Department of Justice , July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

67 Charkoudian, Lorig. *A Quantitative Analysis of the Effectiveness of Community Mediation in Decreasing Repeat Police Calls for Service*. *Conflict Resolution Quarterly* 23, no. 1 (2005): 87–98. <https://doi.org/10.1002/crq.126>.

68 Charkoudian, Lorig, Jamie Walter, Caroline Harmon-Darrow, and Justin Bernstein. *Mediation in Criminal Misdemeanor Cases*. *Criminology, Criminal Justice, Law & Society* 22, no. 3 (2021). <https://doi.org/10.54555/ccjls.3769.30144>.

Drawbacks of Community Mediation



There are three criticisms of mediation worth considering before implementing this solution in your community: the lack of due process protections for the accused, the lack of public transparency, and the limitations of mediations with regards to conflicts where there is a significant power differential.

Lack of Due Process Protections

The American judicial system, in contrast to many other judicial systems around the world, gives precedence to the innocence and rights of the accused. William Blackstone summed up the aims of the American judicial system well when he said “the law holds that it is better that 10 guilty persons escape, than that 1 innocent suffer.”⁶⁹ The Bill of Rights guarantees specific protections, such as the right to face your accuser, the right to see the evidence against you, and that you cannot be compelled to self-incriminate, and others have been interpreted by the courts throughout the years, such as the right to an attorney

in many proceedings. Federal and state sentencing guidelines that lay out detailed processes for protecting the rights of each party in traditional court processes run into the hundreds of pages.⁷⁰

Few of these protections, and often only those imposed by individual state laws, exist in mediation. Critics argue that this lack of protections “allows more powerful interactants to gain the upper hand, and allows the powers that be to define and impose community norms and moral standards” in the mediation process.⁷¹

Lack of Public Transparency

A second criticism to consider is that, in contrast to court cases, resolutions from mediation are confidential. Therefore, these resolutions do not create court precedents.⁷² This may reduce the viability of mediation for addressing disputes in which there is a significant public interest, such as constitutional challenges, class action lawsuits, and conflicts between individuals and governments.

69 Halvorsen, Vidar (2004) *Is it better that ten guilty persons go free than that one innocent person be convicted?*, *Criminal Justice Ethics*, 23:2, 3-13, DOI: 10.1080/0731129X.2004.9992168.

70 United States Sentencing Commission, *Guidelines Manual*, §3E1.1 (Nov. 2018).

71 Bottomley, A. (1985). *What is Happening to Family Law? A Feminist Critique of Conciliation*.

72 Nader, L., *Trading Justice for Harmony*. NIDR Forum (Winter 1992).

May be Unsuitable for Certain Cases

Finally, while cases taken vary significantly from community mediation center to community mediation center, many observers oppose the use of mediation for cases where a significant power differential means one of the parties is unlikely to speak honestly and straightforwardly, or where it may continue a cycle of abuse, such as cases where one or more of the parties have a history of domestic violence.⁷³ Many mediation centers have developed procedures to screen out these kinds of cases for this specific reason.⁷⁴

In cases like these, it may be more valuable to have the due process safeguards of the traditional court system in place to ensure each party gets a fair hearing.

⁷³ *Mediation in Cases of Domestic Abuse: Helpful Option or Unacceptable Risk?* The Final Report of the Domestic Abuse and Mediation Project, Maine Court Mediation Service, January 1992.

⁷⁴ McGillis, Daniel. *Community Mediation Programs: Developments and Challenges*. New OJP Resources. U.S. Department of Justice, July 1997. <https://www.ncjrs.gov/txtfiles/165698.txt>.

Community Mediation Program

Summary

Organization: Dispute Resolution Center
of Thurston County

- Program: **Community Mediation Program**
- Location: **Olympia, WA**
- Established: **1991**
- Cases per year: **2172**
- Case length: **35 days**
- Cost: **\$630/case**
- Impact: **46% of general civil cases in Thurston County, WA**

Operations

- Staff: **14**
- Volunteers: **161**

Support

- Community: **65%**
- Government: **35%**

Impact Story - “We talked for the first time in 4 years.”

When “Jim” returned from active duty, he had a tough time communicating with his family. He and his wife, “Brooke,” were still married, but still lived a few blocks away from each other. They had two daughters together, aged 12 and 14 at the time. The girls told their mom that they didn’t want to go over to dad’s house anymore, because there were too many people coming and going, and that dad was checked out most of the time.

Brooke wanted an amicable divorce so she could move on with her life, and she wanted her kids to have regular, supervised contact with their father, but Jim wasn’t willing to do that. Brooke decided to call the Dispute Resolution Center of Thurston County. After talking to Brooke, DRCTC staff called Jim and encouraged him to try mediation.

In the first mediation session, Jim was slow to talk, and spoke quietly with few words. TDRC mediators worked hard to slow down the session and be attentive to him so he could respond and actively participate. Through the process, Jim was able to

clearly communicate that he wanted to see his kids regularly.

At the end of the session, Brooke and Jim were able to agree to have the girls visit him in a neutral place with Brooke present, and to attend another mediation session. Brooke said that was the first time her and Jim had talked in 4 years.

History of the DRCTC

Evan Ferber, founder of the Dispute Resolution Center of Thurston County (DRCTC), describes himself as a hippie. “I started the center because I just believed that peace was possible,” he says. DRCTC was one of numerous dispute resolution centers formed in response to the 1984 Court Improvement Act, a response by the Washington state legislature to rising concerns about the cost and complexity of court proceedings. The 1984 act laid out the legal framework for alternative dispute resolution, including community mediation, in the state.

DRCTC opened its doors in 1991 with their community mediation program. Since then, the DRCTC has relieved Thurston County’s court system of over 120,000 potential,-

cases, and takes on 46% of Thurston County, WA's general civil caseload⁷⁵ - over 2,000 cases per year.

How DRCTC's Mediation Program Works

At first, DRCTC's mediation program primarily received referrals from attorneys and other members of the court. "In the early days, the cases that were coming our way were judicial officers, attorneys basically saying to their clients 'You know what? You guys have a different way you can approach this. How about you call the dispute resolution center?'," says Jody Suhrbier, DRCTC's Executive Director.

Since then however, the center has worked hard to get more referrals directly from the community. Today, 55% of referrals to DRCTC contact them before they reach the justice system. "We really want to not just be a court-adjacent service," Jody says. "We actually do a lot of promotion and advertising where we get our name and our conflict resolution resource line out into the community."

The resource line is where a potential mediation starts. On the line, trained facilitators ask the caller pointed questions about their dispute, what actions they've already taken, and what potential solutions they have in mind. If

the caller wants to continue with mediation, the facilitators explain DRCTC's facilitative mediation model. "As much as we might like to believe that everybody understands what the facilitative mediation model is, there's a lot of confusion about it. Folks can very easily assume that they are coming to us to be their arbitrators, their judges, or even coming to us for an evaluative process. That's just not what we do," Jody says.

If the caller wants to continue with mediation, DRCTC facilitators will then reach out to the other party. This part can take awhile if the caller hasn't given the other party a heads-up that they will be contacted. "Sometimes [the caller] just gives us the contact info and we reach out cold. And that can take a little bit if folks weren't expecting us," Jody says.

After both parties have been contacted, a mediation is scheduled. Jody emphasizes that although some mediations are mandatory, the court only mandates that the parties show up, not that they mediate. DRCTC facilitators make sure the parties know the process is voluntary from there. "We emphasize for folks that while you were told to come, you have met your obligation to the court by showing up, but very rarely do parties choose to leave once the session has begun."

⁷⁵ *Rep. Courts of Limited Jurisdiction 2019 Annual Report: Annual Caseload Report*. 176. Washington State Courts, 2020. <https://www.courts.wa.gov/caseload/content/archive/clj/Annual/2019.pdf>.

Once the parties enter mediation, DRCTC typically uses a two-facilitator mediation model. Jody says this helps ensure that their mediations are balanced. “Having two different individuals at the table can help balance the sense of what the process is for the parties. They can see that there isn’t just one person that I need to plead my case to, but rather that there are two facilitators, and very much a balanced approach as to who does what.”

In the mediation itself, DRCTC facilitators follow the facilitative mediation model. They start by informing parties of the legal guidelines around the mediation, namely that the mediation itself is confidential and that the agreement is legally binding when sent to the court. Then, they ask each party to share their version of the events, first with the facilitators, and then with each other.

Then, the parties enter negotiations, where they can ask questions of one another and start exploring solutions. “The bulk of the session is in negotiation,” Jody says. At that point, “it’s no longer time to state your case to us, but to consider what you’d like to ask of the person in front of you or the thing you might like to offer.”

At any time, either party can “caucus,” or have a private conversation with the facilitators to work through something or deal with a difficult issue. As the mediation is coming to an end, the facilitators will note down any agreements that are made and write up the settlement agreement. “Folks know in

advance it’s intended to be a legally binding agreement, so they’re really intended to hold it with high regard,” Jody says.

Impact

\$135 Per Case	35 Days to disposition	83% Full or Partial Agreement
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There are two big indicators of the DRCTC mediation program’s impact over the years. The first one is the agreement rate. Over 83% of DRCTC mediations reach a partial or full agreement. However, Jody says, the agreement number isn’t the only thing they measure success by. “In our evaluations, that folks fill out when they’re done, we’re not just measuring whether or not they reached agreement because their own sense of satisfaction is a key part of it.” Even if mediation participants don’t reach a specific agreement, 90% of participants in DRCTC mediations say they are satisfied with the process.

Another big benefit of mediation is that it allows participants to create their own solution, Jody says. “It may be a rare occasion for them to truly have a voice in their conflict and feel empowered to address it. But in mediation “[they] have that self determination to come up with an outcome that is truly theirs.” Participants can also learn how to handle their own conflicts just by watching the facil-

itators' example. "We also get a lot of feedback from folks that they just so appreciate being around the mediators, because there's just something about being with skillful facilitators where you notice these people just being calm and interactive with one another and it can't help but influence your behavior, at least somewhat, as well," she says.

This leads into one of DRCTC's greatest impacts, which is that the skills participants learn in mediation often spread far beyond the mediation they are in. "For instance, folks will say I took your training 15 years ago and now I serve on this committee at my church and I found myself using the golden questions." Jody says that is DRCTC's ultimate goal. "Our vision is that everybody has these skills and uses them. We don't want to mediate for the whole community."

On average, every DRCTC mediation is completed within 35 days of referral. They charge each mediation participant \$165, on average, from a sliding scale based on income and ability to pay, while the actual cost to the DRCTC per mediation is \$630/case.

Why it Works

The number one reason DRCTC's mediation program works, Jody says, is that it's a community effort where the mediators are made up of the community and representative of the community. "When you can effectively hold this constantly changing mix of over a

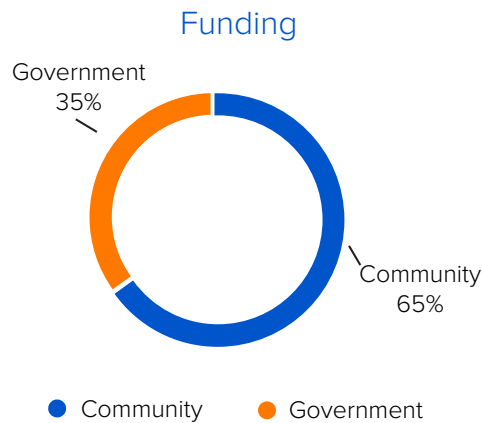
hundred volunteers and keep everybody going in the same direction while learning from one another, it just makes for a really rich process."

That community learning is the second thing that makes DRCTC's mediation program work. "All throughout the process from training, to certification, to recertification, there's always this commitment to learning and growing and benefiting from the wisdom of those around us," Jody says. "I think that is what makes us work and what makes our process continue to be honed and really just consistently appropriate and effective."

These two things combine to help drive the sense of purpose for everyone at DRCTC, Jody says. "If you have both of those things, where you have this deep commitment to the place where you live and you have this wonderful learning community that continues to develop and grow together, it creates a sense of family, a sense of purpose."

Funding and Support

DRCTC's mediation program is 65% community supported, including voluntary donations, volunteer hours, and fees for services, and receives 35% of its income from state and local government contracts and grants.



14 staff are involved in the program. DRCTC staff cover about half of the center’s mediation intakes, follow-up with parties, participate in some mediations, and provide volunteer support. DRCTC’s 161 volunteers serve as mediators and handle about half of the intake and preparation needed for mediations.

For advice on implementing a similar program in your community, contact the DRCTC at <https://www.mediatethurston.org/>.

How to Implement a Community Mediation Program in Your Community

Jody’s advice for implementing a similar program is to focus on the main thing that makes community mediation work - community. “It comes down to a lot of the same things that are going to make a community mediation center thrive in the future. It’s having a real strong understanding and commitment to the core tenets of what it means to have a community mediation center, as far as being community-based, accessible, and representative of the community, not just being an arm of the court, and then committing to setting up programs and services that are in line with what the community most needs and wants to be strong and thriving.”

Presumptive Mediation Program

Summary

Organization: New York Peace Institute

- Program: **Small Claims Presumptive Mediation Program**
- Location: **New York, NY**
- Established: **2019**
- Cases per year: **300**
- Case length: **45 days**
- Cost: **\$186/case on average**
- Impact: **51% of participants reach agreement, 80% of participants satisfied with the mediation process**

Operations

- Staff: **5**
- Volunteers: **81**

Support

- Community: **54%**
- Government: **46%**

Impact Story - Funeral Home Removes Charges

When her mother passed away in 2020, “Nancy’s” life insurance company paid equal claims to her and her brother. However, when her brother didn’t pay for his half of their mother’s funeral, the funeral home charged Nancy the full amount, which she couldn’t pay. She tried contacting the credit card company to address the error, but since it was a legitimate charge they wouldn’t help.

When she tried contacting the funeral home to get it addressed, the funeral company was willing to talk with her, but not willing to give up the full cost of the funeral. Nancy went to the Richmond County, NY small claims court and filed suit.

Because of the New York State Court’s presumptive mediation initiative, she was diverted to the New York Peace Institute’s presumptive mediation program, where she attended a mediation with the funeral home. In the session, the funeral home was able to plead its case as well. They were a family-owned business that had

been in business for 40 years, and while they didn’t want to make people unhappy, it would be a difficult loss for them to give up the whole amount.

In the mediation, Nancy got to talk about her relationship with her brother, how he was generally considered the “black sheep” of the family, and that it wouldn’t be worth the time for the funeral home to go after him. At the end of the mediation, both parties felt heard, and the funeral home ended up not only removing the charge from her credit card, but giving her back her portion of the funeral costs as well.

History of the Small Claims Presumptive Mediation Program

While the New York Peace Institute (NYPI) has always handled some small claims cases as part of its mediation programs, NYPI’s small claims presumptive mediation program began in 2019. As part of her Excellence Initiative to reduce court backlogs and increase court efficiency, New York State Chief Judge Janet DiFiore intro-

duced presumptive small-claims mediation into the New York State Courts.⁷⁶ In partnership with dispute resolution centers across the state, including the New York Peace Institute, NY State Courts started referring most small-claims cases to alternative dispute resolution processes, including mediation, as an initial step before court.⁷⁷

During the COVID-19 pandemic NYPI's presumptive mediation program continued, mediating disputes throughout the court shutdowns.⁷⁸ In September 2020, the New York City (NYC) court system, facing an overwhelming backlog of cases, started sending all small claims cases to NY mediation centers, including NYPI's presumptive mediation program, for resolution. To date, NYPI's presumptive mediation program has taken 626 cases, and continues to take 40-50 cases a month off of the dockets of small claims courts in all five boroughs of NYC. How NYPI's Small Claims Presumptive Mediation Program Works

Unlike most mediation programs, which are entirely voluntary, presumptive mediation requires parties to be referred to mediation before they can continue their claim in court.

In New York, parties can choose to opt out of the process after referral, and are not required to stay for any length of time or mediate with the other party. Nicholas Schmitt, Esq., NYPI's Program Manager for Civil and Housing Court, says they make it clear to parties that the mediation itself is voluntary. "The concern with mandatory mediation has always been people won't participate solely because they're required to. They won't necessarily be there in good faith. We try to come up with reasons for people to want to participate, but if they just flatly refuse, we send those cases back to court."

All referrals to the presumptive remediation program come directly from the NYC court system. When someone goes to file a claim in a NYC small claims court, they receive an email from the court diverting them to mediation, which is quickly followed up by an email from NYPI. "That email from us asks them to give us a time [to talk] and tells them we're excited to talk about the mediation process," Nick says.

On the initial call to each party, NYPI staff explain the mediation process and answer

76 Billingham-Hemminger, Savannah. *Update: ADR Breakfast on New York State's Presumptive Mediation Implementation*. CPR ADR, July 16, 2019. <https://blog.cpradr.org/2019/07/16/update-adr-breakfast-on-new-york-states-presumptive-mediation-implementation/>.

77 Marks, Lawrence. *Court-Sponsored Alternative Dispute Resolution and Access to Justice*. *New York Law Journal*. April 28, 2022. Accessed September 25th, 2022. <https://www.law.com/newyorklawjournal/2022/04/28/court-sponsored-alternative-dispute-resolution-and-access-to-justice/?sreturn=20220825162513>.

78 *Ibid.*

any questions the parties may have. Once the parties agree to a time to meet, NYPI staff sends an email out to their hundreds of volunteer mediators to set up a time for the mediation. All small claims mediations are held remotely. “95% of the time it’s Zoom, maybe 5% of the time we do teleconference mediation,” Nick says.

NYPI follows the facilitative mediation model, but leaves significant flexibility for its volunteer mediators. “We try to allow for freedom and for the parties to lead the process as much as possible” Nick says.

Typically, a small claims mediation starts with an opening statement from the mediator. Then, the mediator allows both parties to talk about their side of the story. From there, mediators will start working with the parties to generate options.

During the options generating portion, Nick says the options created can be surprising. “It was common to have people who sued for the statutory limit in small claims, which is \$10,000 in New York City. But they only had, for example, \$321 in actual damage and the rest is pain and suffering,” he says. “So those are interesting conversations because, you know, a \$10,000 claim might settle for \$300, plus some small amount for pain and suffering when you could assume, purely from the amount sued for, it would settle for maybe \$5,000.”

If the parties come to an agreement, the parties sign and the mediators send the completed agreement to the originating court.

Nº 62

Impact

\$186 Per Case	45 Days to disposition	51% Agreement Rate
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We were not able to confirm whether or not there are small claims backlogs in any of NYC’s five boroughs. According to Nick, the presumptive mediation program, in partnership with other nonprofits, virtually eliminated the backlog of court cases in those courts. “When we first started this program, [the NYC court system had a backlog] in the thousands of cases. Now, there’s no backlog,” he says.

While only 51% of small claims participants reach some kind of agreement by the end of the process, Nick says that the satisfaction of the parties involved is more important than any specific agreement. “We would rather a person leave the table with a proposal they want to consider rather than a signed agreement they might have second thoughts about down the road.”

Party satisfaction rates in the program are high. A little over 80% of small claims mediation participants agreed that the process was valuable and that they would recommend mediation to others. Nick says the first reason is because of the amount of time the parties get in mediation. “107 minutes tends to be the average, which is way more time than they’d get in front of a small claims court judge,” he says.

The second reason is that NYPI mediators are “able to give them the opportunity to talk about not just that they want money, but who they are as a person, how they want to be seen as a person, how this conflict has impacted them, what, any amount of money, if they were to get it, how that impacts them, how not having the money has impacted them, how not having the thing, if it’s not about money, has impacted them.”

Some harder to measure impacts of the program, Nick says, are the conflicts prevented in the future by going to mediation. “We do know that one conflict, like a conflict between two people, winds up impacting something like nine other people in their sphere of influence.”

This also extends to preventing future violent conflicts. One small claims dispute NYPI mediated centered around a dog bite, where the party being sued had agreed to pay for the medical expenses of the claimant, but had not. “After they signed the agreement and shook hands, the guy said, you know, I’m glad we came to an agreement because if we hadn’t come to an agreement, I would have had to break in and rob you. And he was not joking, he was a hundred percent serious,” he says. “I don’t know how often people come to an agreement and wind up not getting robbed because of that agreement, but there are police that don’t have to get involved in a situation, there are people living in the house who would have been im-

pacted, and there could have been criminal justice system involvement. That didn’t have to happen because they came to an agreement.”

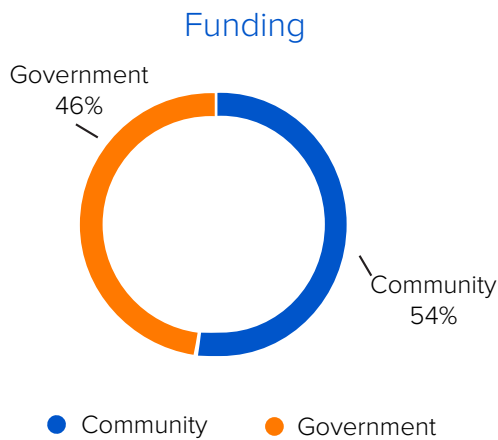
On average, NYPI’s program’s time from referral to resolution is 45 days. While NYPI doesn’t charge litigants anything to attend a mediation, each case costs NYPI approximately \$186.

Why it Works

The first reason Nick says the small claims program works is because of the centralized referral process from the small claims courts. “Without that, things would be scattershot. Courts in one borough might be sending lots of cases, but courts in another might be sending zero, which would mean that people living in that borough wouldn’t get the service.”

The second reason is the dedication of everyone to the program. “Without the dedication of all the people who are trying to make this work, the courts, the law schools, our organization, the referrals wouldn’t matter. People wouldn’t be getting phone calls. They wouldn’t be calling people up to do the mediations.”

This extends to the volunteer mediators, who Nick says really drive the program’s impact. “Some of our mediators have been doing this for 20 years, not necessarily in small claims



court, but mediating for 20 years. Without the mediators, I don't know that we would have the same response rates, the same agreement rates, the same ability to have people understand each other."

Funding and Support

NYPI doesn't track specific funding for each program, but the organization is 54% community supported, including voluntary donations, volunteer hours, and fees for services, and receives 46% of its income from state and local government grants.

5 part-time staff are involved in the program, and handle administrative work, contacts with parties, scheduling, communicating with court staff, and conducting mediations as needed. All of the small claims mediations are mediated by NYPI's 81 trained volunteer mediators.

How to Implement a Community Mediation Program in Your Community

For anyone who wants to implement a similar mediation program in their community, the

first thing Nick recommends is to intervene as early as possible. "I'm a big fan of getting in as early as possible. If there were a way to implement this before a small claims case has been filed, I would encourage people to think about that."

The second thing is to get as many volunteers involved as early as possible. "We were lucky in that we already had a pretty large group of people who were trained to do cases like this. But if we hadn't been, we would've had a lot of issues trying to be responsive."

Another important thing to consider is how to make the follow-up with litigants as quick as possible. "We try to do our initial outreach less than 24 hours after the [first] email goes out. Because otherwise what happens is even if people are interested, they stop responding," he says. Nick suggests being open to communicating with the parties in as many ways as possible "We email, we follow and we text, we do everything," he says.

For advice on implementing a similar program in your community, contact NYPI at <https://nypeace.org/>.

Introduction to Restorative Conferencing

States: **California, Colorado, Delaware, Georgia, Kansas, Maine, Maryland, Michigan, Minnesota, Nebraska, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, Wisconsin, Wyoming**

Estimate of Active Community Programs: **32**

Estimated Cases per Year: **2,500-3,200**

Case Types: **Criminal misdemeanors**

Unlike mediation, which arose in the United States primarily as a response to court inefficiencies and racial unrest, restorative conferencing resulted from implementing indigenous practices in New Zealand's youth justice system, and didn't spread to the United States until the early 1990's.

A restorative conference is a structured meeting between victims, offenders, and both parties' family and friends, in which they discuss the consequences of a crime and decide together how to address the harm.⁷⁹ It is managed by a facilitator who contacts both parties after an offense, arranges the conference, and facilitates the parties through each stage. Towards the end of the conference, the parties sign a restorative contract, an agreement that outlines specific things the offender will do to repair the harm caused.

There are three primary restorative conferencing models, including Family Group Conferencing, the Wagga Wagga model, and the Real Justice model, which differ slightly from each other.

The Family Group Conferencing model, developed in New Zealand after the Maori "whanau," or family conference, invites the families to make the decision about how to deal with the offense separate from the facilitator. In the Wagga Wagga model, developed by the Wagga Wagga Police Service in Australia, a public official, such as a police officer, facilitates the conference and is present for the agreement discus-

sion. The Real Justice model, named after the Pennsylvania nonprofit that pioneered it, is a modified Wagga Wagga model that includes specific restorative principles and a specific script to get the victim, offender, and other participants to understand and repair the harm caused.

Conferencing represents a promising solution for more serious crimes than community mediation usually addresses, and is often shown to reduce recidivism, primarily for youth offenders. Like mediation, all parties often express higher satisfaction with this approach than traditional court processes. The main drawbacks of conferencing are that it may provide limited benefits to the most distressed victims and suffers from the same criticisms over confidentiality and the lack of due process protections as community mediation.

Use of conferencing in the United States today is likely still widespread. We were able to identify 32 active restorative conferencing programs in 19 states, with an estimated annual caseload of 2,500-3,200.

History of Restorative Conferencing

Unlike community mediation, which emerged in the United States primarily to meet the needs of victims and the overwhelmed court system, restorative conferencing originated as a youth justice reform - on the opposite side of the world.

79 Wachtel, T. (2016). *Restorative Conference. Defining Restorative Practices*. International Institute for Restorative Practices. <https://www.iirp.edu/defining-restorative/restorative-conference>.

Three Primary Restorative Conferencing Models



Family Group Conferencing

Facilitated by the family, potentially with social worker assistance.



Wagga Wagga Conferencing

Facilitated by a law enforcement officer who brings the parties to agreement.



Facilitated by an individual trained in restorative justice and follows a specific script

Facilitator is trained in restorative justice and follows a specific script.

Family Group Conferencing

Despite numerous reform efforts from the 1960s to the early 1980s, New Zealand's youth justice system was under heavy criticism. A Working Party committee report criticized the reforms, which centered around welfare and rehabilitative youth justice, as broadly ineffective and unnecessary:

“Many young people who commit offences do not have any special family or social problems. Any problems they or their families have are more likely to be exacerbated than improved by official intervention triggered by the young person's prosecution.”⁸⁰

Diversion programs introduced in 1974 that had initially excited the public were viewed by police officers as widely ineffective.⁸¹ Perhaps most importantly, the indigenous Maori, who saw their children arrested at over 6 times the rates of their white counterparts, heavily criticized the justice system for ignoring indigenous traditions and culture.⁸² A report by the Minister of Justice titled ‘Te Whaingā I Te Tika’ (“In Search of Justice”) did not mince words:

“The present system is based wholly on the British system of law and justice, completely ignoring the cultural systems of the Māori and breaking down completely that system, completely alienating the Māori, leaving them in a simple state of confusion and at the whim of the existing system.”⁸³

80 Rep. New Zealand Department of Social Welfare. (1984) *Review of Children and Young Persons Legislation: Public Discussion Paper*. 1.

81 Morris, A., & Young, W. (1987). *Juvenile Justice in New Zealand: Policy and Practice*. Study Series 1. Institute of Criminology, Wellington.

82 Wittman, M.R. (1995). *Juvenile Justice Legislation in New Zealand 1974 –1989: the process of lawmaking*. Unpublished LLM dissertation. Victoria University of Wellington, Wellington., p. 82.

83 Rep. New Zealand Government Printing Office. (1986). *Te Whaingā I Te Tika*. 4. <https://www.ojp.gov/>

In response, the New Zealand Parliament passed the Children, Young Persons and their Families (Oranga Tamariki) Legislation Act in 1989. This act laid out several new approaches for the youth justice system, but the most fundamental shift was in making the Maori tradition of the “whanau,” or family conference, the standard approach to youth justice proceedings, which it remains in New Zealand today.⁸⁴

Wagga Wagga Conferencing

At the core of family group conferencing is the family caucus, or a private meeting between members of the family to decide the best remedy for the offense. However, as family group conferencing spread to Australia, there was some criticism of the family making the ultimate decisions for the youth offender. In 1991, Terry O’Connell, a sergeant with the Wagga Wagga Police Service, developed a modified version called the Wagga Wagga model.⁸⁵ In this approach, a police officer or other public official leads the conference, and encourages the family and youth to come to an

agreement for restitution and reparation. After showing some success in Wagga Wagga, the model was piloted in 5 other communities by the New South Wales Police Service, but ultimately Australia’s parliament decided to adopt the family group conferencing model pioneered in New Zealand.⁸⁶

Despite being rejected by its home, Wagga Wagga conferencing started to spread internationally. In Sparwood, British Columbia, the Royal Canadian Mounted Police initiated Canada’s first restorative conferencing programs. The Thames Valley Police Service in the United Kingdom adopted the Wagga Wagga Model in their community.⁸⁷ The biggest boost for restorative conferencing, however, came from the modifications brought by Real Justice conferencing.

Real Justice Conferencing

Real Justice Conferencing, named after the Pennsylvania nonprofit that pioneered the model, structures the Wagga Wagga approach around specific restorative

pdf/files1/Digitization/108668NCJRS.pdf.

84 *Youth Justice Family Group Conferences*. Oranga Tamariki, March 13, 2017. <https://www.orangatamariki.govt.nz/youth-justice/family-group-conferences/>.

85 McDonald, J & Moore, D. (1999). Community Conferencing as a Special Case of Conflict Transformation. Paper presented to Restorative Justice and Civil Society, Australian National University, Canberra, 16–18 February 1999.

86 O’Connell, Terry. *From Wagga Wagga to Minnesota*. IIRP. First North American Conference on Conferencing, August 8, 1998. <https://www.iirp.edu/news/from-Wagga-Wagga-to-minnesota>.

87 *Ibid.*

justice principles.⁸⁸ Otherwise known as community group conferencing, Real Justice conferencing focuses the conference on a specific incident instead of using conferences to uncover needs for rehabilitative or social services. Real Justice conferencing also follows a specific script. The facilitator starts by reading a preamble setting the focus of the conference, asks a specific series of questions to the victim, offender, and any of their support persons or representatives at the conference, negotiates a reparation agreement between the victim and offender, and ends by reintegrating the members of the conference with each other.

Early implementations of the Real Justice model in the United States included a Minnesota state-funded pilot program, efforts in Vermont⁸⁹, and the Honolulu Police Department.⁹⁰

Today, restorative conferencing has taken root in dozens of communities around the United States. Our research identified 32 active restorative conferencing programs in 19 states, with an estimated annual caseload of 2,500-3,200.

How Restorative Conferencing Works

Restorative conferencing programs receive referrals, often criminal, from police, judges, and other members of the criminal justice system. In some cases, the offender has already been charged and is offered the option of conferencing. If the offender completes the conferencing program, which includes the items in the restorative contract they sign at the end of the conference, then the case is dropped. In other cases, police officers direct a victim-offender pair to conference in lieu of issuing a citation.

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88 McCold, Paul. *Primary Restorative Justice Practices*. In *Restorative Justice for Juveniles: Conferencing, Mediation and Circles*, edited by Allison Morris and Gabrielle Maxwell, 59. London: Hart Publishing, 2001. Accessed May 12, 2022. <http://dx.doi.org/10.5040/9781472559111.ch-003>.

89 O'Connell, Terry. *From Wagga Wagga to Minnesota. IIRP*. First North American Conference on Conferencing, August 8, 1998. <https://www.iirp.edu/news/from-Wagga-Wagga-to-minnesota>.

90 Walker, L. (2002). *Conferencing: A New Approach for Juvenile Justice in Honolulu*. *Federal Probation Journal*, 66(1), June 2022.

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officers direct a victim-offender pair to conference in lieu of issuing a citation.

Before setting up a conference, victim-offender pairs are typically screened by the type of offense. Different programs have different ways to categorize offenses, and most programs have limits to the kinds of cases they will facilitate. Once screening is complete, the pair are referred to a trained facilitator. Once the conference facilitator reviews the case, they will contact the victim and offender to arrange the conference. While there are three different models of re-



storative conferencing, each follows a similar process and primarily differs based on who holds the conference and how structured the facilitator role is.⁹¹ The typical conference process is as follows:⁹²

1. Outreach - The facilitator contacts the offender and victim or, in the case of a youth, their families to explain the conference and invite them to the process. The facilitator also asks the victim and offender to identify key support members to come with them to the conference.

2. Preparation - The facilitator holds conversations with the offender and victim about the specifics of the conference and schedules the conference with the victim, offender, and their support persons.

3. Conference - In the conference, the facilitator asks both the victim and offender to share their experience of the situation and its impact on their lives. The facilitator will then ask the offender and victims' support persons to share their reaction to each of the stories.

4. Restorative Contract - After a thorough discussion of the impacts, the victim is asked

to outline their desired outcomes from a restorative contract. The offender and victim closely negotiate the terms of the contract, often in a way that stresses the strengths of the offender to benefit both parties in the contract. The restorative contract is then signed by both victim and offender.

5. Reintegration - After the restorative contract is agreed upon, at the end of the conference, the victim, offender, and their support persons go through a casual period of reintegration. Sometimes food is served. This informal social period allows the victim and offender to recognize each other's humanity and interact in a normal setting.

After the conference is over, the facilitator will track the progress of the restorative contract and report the progress of the contract to the police, courts, or other agencies that referred the offender. If the contract is completed, the offender has their case dismissed or charges are never filed. If the contract is broken, the victim still has the opportunity to seek justice in court.

91 McCold, Paul. *Primary Restorative Justice Practices*. In *Restorative Justice for Juveniles: Conferencing, Mediation and Circles*, edited by Allison Morris and Gabrielle Maxwell, 59. London: Hart Publishing, 2001. Accessed May 12, 2022. <http://dx.doi.org/10.5040/9781472559111.ch-003>.

92 Bazemore, Gordon and Mark S. Umbreit. *A Comparison of Four Restorative Conferencing Models*. Page 5. (2001). <https://www.ojp.gov/pdffiles1/ojjdp/184738.pdf>.

Restorative conferencing, because it often deals with greater harms and more criminal cases than community mediation, may take longer and be more expensive than community mediation, but it may still be less expensive and faster than court.⁹³ In addition, it brings with it major additional benefits, such as increased party satisfaction, greater likelihood of apologies and restitution for victims of crime, reduced recidivism, and may even reduce the overall cost of crime to a community.

93 Bazemore, Gordon and Mark S. Umbreit. *A Comparison of Four Restorative Conferencing Models*. Page 5. (2001). <https://www.ojp.gov/pdffiles1/ojjdp/184738.pdf>.

Benefits of Restorative Conferencing over Traditional Justice Approaches

Short-term Benefits

Party Satisfaction

Like community mediation, one of the most important indicators of the benefits of restorative conferencing is the high satisfaction rates with the process. Several studies have looked at victim satisfaction with conferencing. An evaluation of 12 different conferencing sites in Minnesota found that victim satisfaction with the process and outcome hovered between 93% and 95%.⁹⁴ A preliminary report of conferencing in Washington County, MN found that 100% of the victims were satisfied with the process, and 80% thought it was fair for offenders as well.⁹⁵

A majority of studies have found that victims overwhelmingly recommend the process to others.⁹⁶ While less research has been done on offender perception of the process, one Australian study found that 72% of offenders were satisfied with the conferencing process,

as opposed to 54% of offenders that went through the court system.⁹⁷

Long-term Benefits

Offenders are More Likely to Repair Harm

In what is again a somewhat surprising outcome, community conferencing seems to lead to more restitution and reparation for victims. In at least some preliminary findings from a comparison of conferencing to traditional court, Strang, Barnes, Braithwaite and Sherman found that while only 8% of victims reported getting an apology and restitution from offenders in court, 83% of victims in conference cases reported getting an apology and restitution.⁹⁸

Reduced Mental Issues for Victims

94 Umbreit, M., Fercello, C., & Umbreit, J. (1998). *National survey of victim offender mediation programs in the US. Draft prepared for the Office for Victims of Crime*. U.S. Department of Justice. Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota.

95 Umbreit, M., & Fercello, C. (1997). *Interim report: Client evaluation of the victim/offender conferencing program in Washington County (MN)*. Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota.

96 Latimer, Jeff., & Kleinknecht, Steven. (2000, January). *The Effects of Restorative Justice Programming: A Review of the Empirical*. Department of Justice Canada, Research and Statistics Division. 12. Retrieved May 2022, from https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00_16/.

97 Strang, H., Barnes, G., Braithwaite, J., & Sherman, L. (1999). *Experiments in restorative policing: A progress report on the Canberra Reintegrative Shaming Experiments (RISE)*. Australian Federal Police and Australian National University.

98 Ibid.

Conferencing also appears to have long term mental health benefits for victims. In London, two randomized, controlled trials were performed to test the effects of conferencing on victim Post-Traumatic Stress Symptoms (PTSS) after experiencing a robbery or burglary. Restorative conferences resulted in 49% less victims with instances of clinical PTSS symptoms than victims who went through traditional court processes.⁹⁹

Community Benefits

Reduced Recidivism

By far the most promising, and well researched, area of restorative conferencing is its effects on recidivism. A meta-analysis of 25 restorative conferencing programs, including nearly 12,000 youth offenders, found that restorative conferencing reduced recidivism among youth offenders by an average of 26%.¹⁰⁰ A study of the Australian Capital Territory juvenile offender conferencing program

found a decrease in matched-case re-offenses of over 30%.¹⁰¹ Individual program studies include an Alameda County, California program that reduced one-year recidivism rates for juveniles to 18.4% compared to the county average of 32.1%,¹⁰² and a National Research Center report on the Longmont Community Justice Partnership's conferencing programs that found a recidivism rate of only 10% for program participants.¹⁰³

Reduced Long-term Costs of Crime

While comparative research of the costs of restorative conferences as opposed to court are difficult to find, some studies have found that the cost savings of crimes prevented far outweighs the traditional justice system. One meta-review of 7 restorative conferencing studies in the UK found that the reduced recidivism caused by restorative conferencing reduced the costs of crime to those commu-

99 Angel, Caroline. M., Sherman, L. W., Strang, H., Ariel, B., Bennett, S., Inkpen, N., Keane, A., & Richmond, T. S. (2014). Short-term effects of restorative justice conferences on post-traumatic stress symptoms among robbery and burglary victims: A randomized controlled trial. *Journal of Experimental Criminology*, 10(3), 291–307. <https://doi.org/10.1007/s11292-014-9200-0>.

100 Bradshaw, B., Roseborough, D. (2005). *Restorative Justice Dialogue: The impact of mediation and conferencing on juvenile recidivism*. *Federal Probation*, 69 (2), 18. https://ir.stthomas.edu/cgi/viewcontent.cgi?article=1028&context=ssw_pub.

101 Broadhurst, Roderic & Morgan, Anthony & Payne, Jason & Maller, Ross. (2018). *Restorative Justice: An Observational Outcome Evaluation of the Australian Capital Territory (ACT) Program*. 10.13140/RG.2.2.11625.44643.

102 Baliga, Sujatha, Henry, Sia, & Valentine, Georgia. (2017). *Restorative Community Conferencing. A study of Community Works West's restorative justice youth diversion program in Alameda County*. Impact Justice. 7. https://impactjustice.org/wp-content/uploads/CWW_RJreport.pdf.

103 Rep. National Research Center. *Analysis of Longmont Community Justice Partnership Database 2007-2009*. May, 2010

nities by between 3.7x and 8.1x more than the cost of the conferences.¹⁰⁴

Better Community Policing

Some minimal research also indicates that conferencing can result in more community-oriented policing. A study of the Bethlehem, PA Police Department's conferencing program found that officers said that they had a more community-oriented and problem-solving approach to their work after attending the conferences.¹⁰⁵

104 Sherman, L.W., Strang, H., Mayo-Wilson, E. et al. *Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review*. *J Quant Criminol* 31, 1–24 (2015). <https://doi.org/10.1007/s10940-014-9222-9>.

105 McCold, P., & Wachtel, B. (1998). *Restorative policing experiment: The Bethlehem Pennsylvania Police family group conferencing project - summary*. Community Service Foundation, Pipersville, Pennsylvania. <https://www.iirp.edu/images/2022/Restorative-Policing-Experiment-Report.pdf>.

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Drawbacks of Restorative Conferencing

Restorative conferencing carries similar drawbacks to mediation, in that it may be limited in which victims it can help and there is a lack of due-process protections and transparency in the process.

Limited Benefits for the Most Distressed Victims

One drawback of restorative conferencing is that, even though it does typically address greater harms than community mediation, it may still be limited in the types of victims it can serve. Some research indicates that the victims who experienced the most distress from a crime may not experience recovery through the restorative conferencing process. One study of 89 conferences in South Australia found that while after one year, 95% of the no-distress, 78% of the low-distress, and 63% of the moderately-distressed victims had recovered, only 29% of the high-distress victims had recovered.¹⁰⁶ This implies that “victims who are affected negatively and deeply by crime need more than [restorative justice] (or court) to recover from their victimization.”¹⁰⁷

106 Daly, Kathleen, Michele Venables, Mary McKenna, Liz Mumford, and Jane Christie-Johnston (1998) South Australia Juvenile Justice (SAJJ) *Research on Conferencing, Technical Report No. 1: Project Overview and Research Instruments*. School of Criminology and Criminal Justice, Griffith University, Queensland. https://www.griffith.edu.au/__data/assets/pdf_file/0023/223736/1998-Daly-SAJJ-CJ-Tech-report-1-Project-overview.pdf.

107 Daly, Kathleen. *The Limits of Restorative Justice*. In *Handbook of Restorative Justice: A Global Perspective* (2006), edited by Dennis Sullivan and Larry Tiftt (pp. 134-45). Pre-print available at https://www.griffith.edu.au/__data/assets/pdf_file/0025/223774/2006-Daly-The-limits-of-RJ-preprint.pdf.

108 Daly, Kathleen. *The Limits of Restorative Justice*. In *Handbook of Restorative Justice: A Global Perspective* (2006), edited by Dennis Sullivan and Larry Tiftt (pp. 134-45). Pre-print available at https://www.griffith.edu.au/__data/assets/pdf_file/0025/223774/2006-Daly-The-limits-of-RJ-preprint.pdf.

Can't be Used for Fact-Finding

Conferencing, like mediation, is primarily a collaborative process for parties that have agreed that a harm occurred and where the offender has taken responsibility for at least some of the harm. Restorative conference facilitators are not attempting to address whether or not a crime occurred, or if the offender is guilty, but how to address the harm caused by that crime, meaning restorative conferencing can likely not be used for fact finding and determining guilt or innocence.¹⁰⁸

Lack of Public Transparency

Similar to community mediation, restorative conferencing is a private process that is kept confidential between the parties. The criticisms that apply to mediation in this way may also apply to restorative conferencing.

Community Group Conferencing Programs

Summary

Organization: Longmont Community Justice Partnership (LCJP)

- Program: **Community Group Conferencing (CGC), RESTORE**
- Location: **Longmont, CO**
- Established: **Community Group Conferencing: 1997, RESTORE: 2015**
- Cases per year: **80-100**
- Average case length: **Under 60 days**
- Average cost: **\$1,125/case**
- Caseload: **7-9% of misdemeanor violations in Boulder County - Longmont, CO**
- Impact: **Over 90% of contracts completed, 10% recidivism rate, and 95% of participants satisfied with the conferencing process**

Operations

- Staff: **3**
- Volunteers: **65**

Support

- Community: **65%**
- Government: **35%**

Impact Story - Welding Justice

“Mike” was an employee of a major corporation with stores in Longmont, CO. He was caught embezzling money from the store he worked at, and was promptly fired. His case was diverted to Longmont Community Justice Partnership’s community group conferencing program.

When he entered the program, LCJP staff used their “strengths-based” approach to learn more about who he was as a person outside of the crime he had committed. It turned out that he was an aspiring welder, and his dream was to weld pipes in Alaska. He told LCJP staff he noticed when he was working at his store that there were several cart corrals that had fallen into disrepair, and there was no one to fix them.

In the conference, Mike and his employer agreed that he could restore them in a way that would use his new skills to help the corporation he harmed.

Instead of being charged with embezzlement, Mike fixed all the cart corrals at the corporation’s stores in the area, restoring some of the money he took and helping him train for the career he wanted.

History of the LCJP’s Community Group Conferencing Programs

The Longmont Community Justice Partnership began as Teaching Peace, a national educational program focused on school bullying and violence prevention. However, after a few years, they felt like they were “expending our energy with this national effort and neglecting our own community,” wrote Beverly Title, Teaching Peace’s founder.¹⁰⁹ In 1997, Teaching Peace received a grant from the Colorado Office of the Governor and formed a partnership with the Longmont, CO police department, probation department, and school system to start implementing restorative conferences.

109 Title, B. B. (2009, March 24). *History: Our Founder’s Story History &; Operational Values Of Teaching Peace*. Longmont Community Justice Partnership. Retrieved May 2022, from https://static1.squarespace.com/static/5b43b-22d266c074e470c4796/t/5e93ba3e21219916190b68f9/1586739776906/LCJP_Founder_Beverly+History.pdf

From these humble beginnings, Teaching Peace, now renamed the Longmont Community Justice Partnership (LCJP), has grown their community conferencing program from a small pilot in Colorado to national and international acclaim, presenting their model at international conferences including in the Netherlands, Canada, and Chile. To date, LCJP's programs have diverted 2,600 offenders from Longmont's municipal courts and Boulder County's criminal courts. Today, Longmont Police divert 80-100 offenders per year into LCJP's conferencing programs, just under 10% of Boulder County's misdemeanor criminal caseload.¹¹⁰

How LCJP's Community Group Conferencing Programs Work

LCJP has two community conferencing programs, community group conferencing, which is a facilitated dialogue between victims or victim surrogates and offenders, and RESTORE, a program that focuses specifically on reducing shoplifting. However, offenders for both programs come in about the same way.

Both store owners and the police refer offenders, what LCJP staff calls "responsible

persons," to LCJP through a referral form. If the police are referring the offender, LCJP also receives a copy of the police report. The first thing LCJP staff do is reach out to the victim. "We share with the victim all the options for participating," Dana Henderson, LCJP's Community Programs Director, says. Victims can choose to send the case directly to court, nominate a friend or family member to participate in their stead, or participate in the process themselves.

Then, LCJP staff reach out to the responsible person. "We're listening for what happened, and what responsibility they take," says Dana. Based on the level of offense, they'll determine which of LCJPs programs to send them to.

After LCJP staff screen the case, they hand it off to one of their 38 volunteer facilitators for the pre-conferencing process. The pre-conferencing process involves several separate calls with the victim and offender, and they look different for each.

Calls to the victim are primarily focused around what they need, how the process works, and what they are looking for to restore the harm. Calls to the offender focus on the process, but also who they are outside of just the crime. "During the time that we're

110 Rep. *Colorado Judicial Branch Annual Statistical Report Fiscal Year 2019*. 78. Colorado Courts, 2020. <https://spl.cde.state.co.us/artemis/scserials/sc112internet/sc1122019internet.pdf>.

working with that responsible person, the volunteers in that pre-conference meeting are finding out, like, who are you? Who do you love? What do you think of, you know, what, what are your strengths and skills?” “That’s supporting this idea of ‘hey, we know that you are more than the decision you made.’”

When LCJP’s volunteer facilitators believe both parties are ready to reach an agreement, they will schedule a conference. At this conference, victims and offenders are encouraged to bring support persons, such as a relative or friend. Community members are invited to bring insight and voice impact, and the responding officer is often invited as well. “Most conferences include 2 facilitators, 2 community members, a responsible person, their support person, a police officer and a harmed party (victim) for a total of 8 people,” Jessica Goldberg, LCJP’s Training Institute Manager, says.

During the conference, everyone takes turns exploring what happened, who was affected and how, and what needs to be done to repair the harm. The victim shares how the crime impacted them, and the officers and community members give their perspective on how it affected the larger community. The responsible person answers questions the victim and community members want to ask. “The thing [victims] want most to understand is ‘why did this happen?’, ‘what did I do to cause harm to come my way?’ ‘Why did the

person decide to do this?’” Jessica says.

At this point in the process, the responsible person will take responsibility for the harm they’ve caused, and often offer an apology to the victim. Then, the victim and responsible person work together to create a “restorative contract,” an agreement on what the responsible person will do to repair the harm. This typically includes an apology letter, educating others on the harm they’ve caused, and may include some kind of restitution. At the end of the conference, they set a contract deadline, typically under 6 months, by which that harm will be repaired. “And then hopefully, there’s some work that follows and a celebration at the completion of that process.” says Dana.

Impact

\$1,125 Per Case	Under 60 Days to disposition	10% Recidivism Rate
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LCJP offers more than hope, however, that offenders will complete the process. Since 2007, LCJP has partnered with PenLink - a Colorado-based data analysis company - to track the completion rates of their contracts. Both youth and adults complete over 80% of their contracts, and their completion rate in the past 5 years is even higher, hovering at between 90% and 95%, Jessica says.¹¹¹

¹¹¹ 82 *Restorative Justice: An Evidence Based Approach*. LCJP. Penlink, 2020. <https://www.lcjp.org/data-penlink>.

More importantly, LCJP's responsible persons are less likely to reoffend after the contract is completed. According to an independent study by the National Research Center of LCJP's programs from 2007-2009, only 10% percent of responsible persons reoffended within one year, over three times less than that of the Colorado Division of Youth Services' 32% average recidivism rate in the same period.¹¹²

Satisfaction rates with the process for victims, responsible persons, and even community members hover around 95% as well. "I was afraid we were all going to be like holding hands and, you know, hitting the tambourine and singing and, and stuff," one of LCJP's police liaisons, Commander James Brown, says. "I can tell you, from a firsthand account, that the accountability that comes out of these conferences, especially for lower level offenses, is often much greater than what comes out of the criminal justice system. It would be much easier just to pay a fine than it would be to take the steps that often come out of these contracts in order to actually repair that harm and make a meaningful impact."

Another specific impact for victims, and even the responding officers who participate, is that they get to hear the responsible person actually take responsibility for their actions.

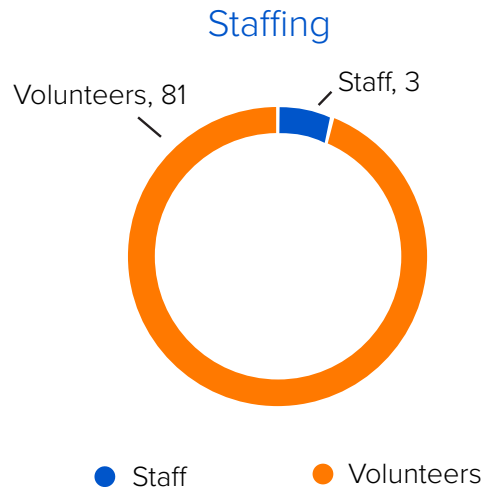
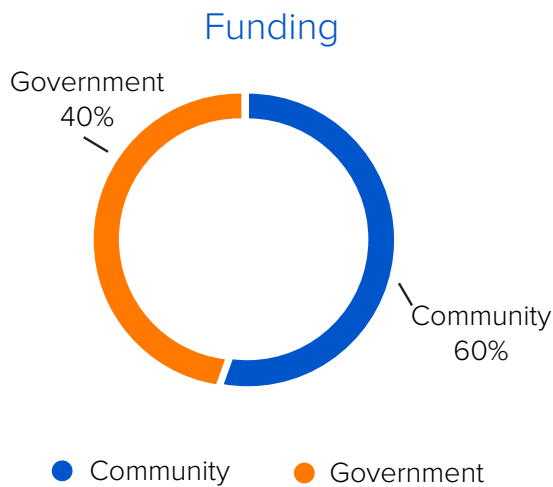
"One of the reasons why police officers have bought into restorative justice and have agreed to participate is because they go to trial often as witnesses, and they don't hear anyone taking responsibility. But when they come to restorative justice, they hear it," Jessica says.

Finally, Jessica says, their program helps preserve future agency for the responsible person. "If the responsible person gained a criminal record, they "wouldn't be able to choose the job they want, get the loan for school that they need, or be seen by their family in the same way. By having an alternative process, we've preserved that agency in their life for them." LCJP charges the responsible person a \$125 fee to participate in their conferencing programs, and the average cost of each case to LCJP is \$1,125.

Why They Work

Dana says the most important thing that makes LCJP's programs work is their relationship with the Longmont Police Department (LPD). LCJP trains each of LPD's incoming officers in restorative justice principles. "They're the ones out there doing the screening," she says, referring to the two criteria officers use to evaluate for potential diversion to LCJP's programs. LCJP has a

112 Rep. *Colorado Judicial Branch Annual Statistical Report Fiscal Year 2019*. 78. Colorado Courts, 2020. <https://spl.cde.state.co.us/artemis/scserials/sc112internet/sc1122019internet.pdf>.



liaison team of 11 officers, and officers are invited to participate in the conferences themselves. “When police officers participate, their engagement in the process is what fuels their excitement and willingness to refer” Dana says.

Another thing that makes the program work is the dialogue between victims and responsible persons. “A court proceeding is set up to protect the rights of the people accused of a crime, so they don’t have dialogue with the people they harmed,” Jessica says. To avoid incriminating themselves, responsible people will often take little or no responsibility in a courtroom. However, the conference provides a safe space for the responsible

person to admit and apologize for harm. “The beautiful thing about it is that with greater understanding, with a feeling of safety there’s a willingness to be vulnerable, and accountability requires vulnerability,” she says.

Finally, Dana cites LCJP’s strengths-based approach as key to their success. When volunteer facilitators speak to the responsible person about the case, they look to learn more about who they are outside of just the harm they’ve caused. They identify that person’s strengths and skills, not just to make the responsible person feel better about themselves, but to create a meaningful restorative contract. “We integrate those strengths into meaningful repair items that can go on the contracts, because that makes a big difference” Dana says.

Funding and Support

LCJP’s community conferencing programs are 60% community supported, including voluntary donations and volunteer hours, and receive 40% of their income from the city of Longmont.

At a minimum, our programs require two full-time staff, but ideally 3 full-time,” Jessica says. LCJP staff do all the intake, assessment, case management, and volunteer coordination, as well as building relationships, maintaining relationships, and training with justice system partners like the police and courts. LCJP has 65 total volunteers, most of whom serve as either community surrogates, who represent the victim when they don’t want to attend a conference, or conference facilitators. The rest serve the program through administration, board, and committee work.

How to Implement a Restorative Conferencing Program in Your Community

The first thing LCJP recommends for starting a similar program in another community is patience. “It takes a lot of diligence to win over [justice] system-involved stakeholders,” Jessica says. LCJP uses implementation science in their training institute, which helps train other organizations and leaders how to implement LCJP’s model in their community. They estimate it will take about 3 years to get something like this moving in a community. “Having time is really necessary.”

For advice on implementing a similar program in your community, contact LCJP at <https://www.lcjp.org/>.

Solution #4- Victim-Offender Dialogue

Introduction to Victim-Offender Dialogue

States: **California, Delaware, Maryland, Missouri,
Nebraska, New Mexico, Pennsylvania, Washington**

Estimate of Active Community Programs: **12**

Estimated Cases per Year: **720-960**

Case Types: **Criminal misdemeanor, Criminal
felony**

Victim-offender dialogue (widely known as victim-offender mediation) is the most well-researched community solution to justice. First started in 1974 by two youth probation volunteers in Canada, around a dozen programs serve nearly 1000 cases per year in the United States.

Victim-offender dialogues (VODs) are used almost exclusively for criminal cases, and in many cases replace a standard criminal trial, though the victim has the opportunity to take the case to court if the outcome is unsatisfactory. In most programs, the VOD is initiated by the victim, though they can also be initiated by the prosecuting attorney and, in some cases, offenders as well.

A VOD typically consists of four steps. First, an agency will receive a referral from the victim, offender, or court official such as a prosecutor. Secondly, the agency will check with both the victim and the offender to see if they would like to proceed with the dialogue process. If both agree, then the agency holds preparatory meetings with the victim and offender as well as support persons. The victim is prepared to tell their story and to consider what would help repair the harm. The offender is walked through taking responsibility for

their actions and listening to the victim. Then, the agency schedules a dialogue between the victim, offender, and support persons, after which an agreement is signed listing out what the offender will do to repair the harm they caused. Finally, the agency monitors the agreement to completion, and when complete, contacts the court to have the charges removed from the offender's record.

As one of the most studied alternative approaches to justice, VOD offers numerous, well-backed benefits over traditional prosecution. In the short term, both victims and offenders are more satisfied with the process than with traditional court proceedings, perceive the processes as fairer, and see higher completion rates of agreements and restitution paid than traditional justice approaches. In the long term, VODs can improve the attitudes of both the victim and offender toward each other, and the process likely significantly reduces offender recidivism.

However, there are some drawbacks to consider as well. Offenders may feel pressured to waive their right to a trial if they believe they are innocent. Both the victim and offender may be reluctant to attend

.the dialogue. There is also a risk of revictimization with some crimes.¹¹³

History of Victim-Offender Dialogue

The first recorded instance of a victim-offender dialogue was in 1974, when two youth probation volunteers became frustrated with the proceedings in the traditional Canadian criminal justice system and started to brainstorm about possible alternatives. When they came across a case where two youth offenders were arrested for vandalizing the small rural community of Elmira, Ontario, they suggested that the two offenders meet with all 22 of the victims in the community. The judge, originally interested but skeptical of the idea, reversed his decision and agreed to let the victims and offenders meet. After which the offenders met with and apologized to their victims and ultimately paid restitution to “make things right”.¹¹⁴

Four years later, in 1978, VOD spread to the United States through the advocacy of several local probation officers and the Mennonite Church. It started with a few cases

in Elkhart County, a community of approximately 137,000 [in 1978], in Northern Indiana. Elkhart County Superior Court Judge William Bontrager referred some cases to a group of probation officers and the Mennonite Central Committee to experiment with. The results seemed to help address the harms caused by offenders and the program continued.

Then, in 1983 a Community Service and Victim Assistance program was started in the small rural town of Batavia, New York. What made this program unique was that it was part of a larger and more intense victim assistance program operated by the Genesee County Sheriff’s Department. Between 1983 and 1985 only 17 cases went through the VOD program, but nearly all of the them involved violent offenses like homicide, rape, armed robbery, and assault.¹¹⁵

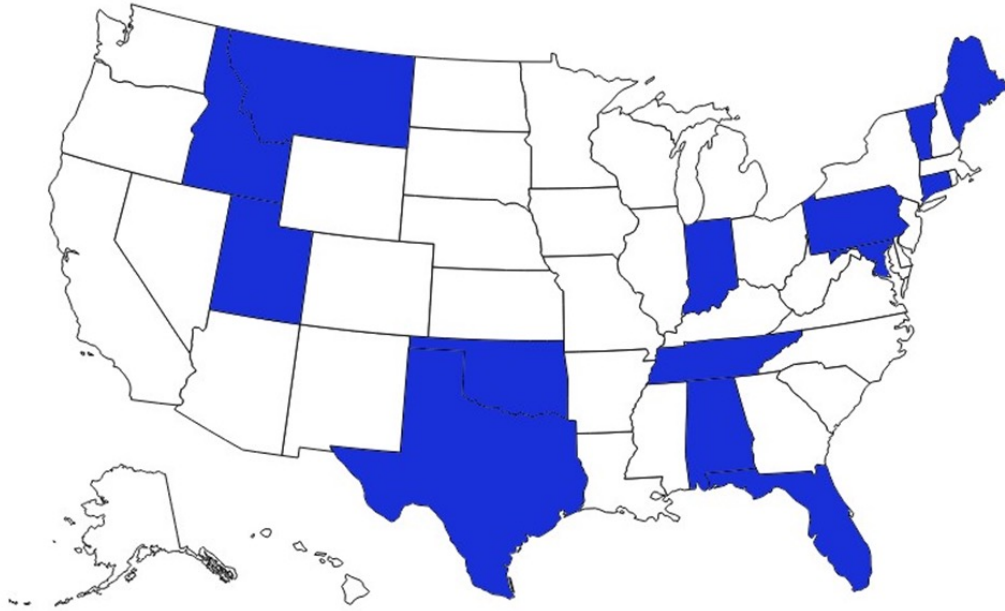
Within a couple decades of the first cases in Ontario and Indiana, VOD programs began to be accepted worldwide, including across the United States.¹¹⁶ A study completed in 2000 found that at least nineteen states had passed legislation promoting a more balanced and restorative juvenile justice system,

113 Amstutz, Lorraine Stutzman. *The Little Book of Victim Offender Conferencing: Bringing Victims and Offenders Together in Dialogue*. Intercourse, PA: Good Books, 2009.

114 Gustafson, D. Encountering ‘The Other’: Victim Offender Dialogue in Serious Crime. Ku Leuven, 2018. 123-124. https://lmo.libis.be/primo-explore/fulldisplay?docid=LIRIAS1996032&context=L&vid=Lirias&search_scope=Lirias&tab=default_tab&from-Sitemap=1.

115 *Ibid.*

116 *Ibid.*



which included victim-offender dialogues.¹¹⁷ By the early 2000s, VODs were being endorsed and encouraged by two international bodies: the United Nations and the Council of Europe.¹¹⁸

States with Balanced and Restorative Justice Legislation by 2000

Victim-offender dialogues remain the oldest and most widely developed usage of restorative justice practices; they have been

in practice for nearly 50 years and several hundred cases a year are handled by VOD programs across the United States. Recent estimates of community VOD program case numbers do not exist, however, given that our case study handles 60-80 cases per year, we estimate that the 12 community VOD programs we identified handle 720–960 cases per year.

How Victim-Offender Dialogue Works

A victim-offender dialogue is a structured

117 Mark, U. S., Vos, B., Coates, R. B., & Lightfoot, E. (n.d.). *Restorative Justice in the Twenty-First Century: A Social Movement Full of Opportunities and Pitfalls*. Marquette Law Review. Retrieved May 2022, from <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1098&context=mulr>.

118 Umbreit, Mark S., Robert B. Coates, and Betty Vos. *Victim-Offender Mediation: Three Decades of Practice and Research*. *Conflict Resolution Quarterly* 22, no. 1-2 (2004): 279–303. <https://doi.org/10.1002/crq.102>.

conversation between the victim, offender, and typically their support persons, that seeks to find ways to repair the harm caused by the offender. In many programs, a VOD can only be initiated by the victim. The victim may initiate a dialogue for numerous reasons, including because they want information about the offense or the offender, be interested in sharing how the offender's actions affected them and others, or even have an idea how to heal some of the harms caused by the offender.¹¹⁹ Some other programs also allow initiation by the offender's side or a referral by other people on the behalf of the victim, like therapists or aboriginal elders.¹²⁰

Some VOD programs work with victims pre-charge, meaning that a charge does not yet appear on the offender's record even if a citation has been issued, and others work with victims after the offender has been charged but before they are convicted. Regardless of the stage in the process a dialogue is initiated, the VOD process typically consists of four steps:

1. Referral - At the beginning of the dialogue

process, the victim, court officer, or other involved person contacts a qualified agency that conducts VOD programs. The agency will often screen that case for the type of harm and involved parties. If the VOD agency is willing to facilitate the case, agency staff will begin contacting each party. VOD program staff will often ensure that the offender has taken responsibility for the crime, any minors have been given permission to participate, and there are no mental health issues that could inhibit the process.¹²¹ If both the victim and offender agree to participate, the agency will discuss with the victim what happens next.¹²²

2. Preparation - Upon agreeing to facilitate the case, the VOD agency will hold preparatory meetings with both parties to discuss the process. With the victim, VOD program staff will prepare them to tell their story and encourage them to think about what might repair the harm caused. With the offender, VOD staff will often walk them through taking responsibility for their actions and listening to the victim. Both parties are also typically offered the opportunity to select

119 University of Wisconsin-Madison Law School. *Victim-Offender Dialogue*. Accessed May 11, 2022. <https://law.wisc.edu/fjr/rjp/vod.html>.

120 Gustafson, D. *Encountering 'The Other': Victim Offender Dialogue in Serious Crime*. Ku Leuven, 2018. 154. https://lmo.libis.be/primo-explore/fulldisplay?docid=LIRIAS1996032&context=L&vid=Lirias&search_scope=Lirias&tab=default_tab&fromSitemap=1

121 Hansen, Toran, and Mark Umbreit. *State of Knowledge: Four Decades of Victim-Offender Mediation Research and Practice: The Evidence*. *Conflict Resolution Quarterly* 36, no. 2 (2018): 99–113. <https://doi.org/10.1002/crq.21234>.

122 *Ibid.*

support persons to join them in the dialogue. Once both parties are prepared, the facilitators will schedule a meeting in a safe environment that all parties have agreed to meet at for the dialogue.¹²³

3. Dialogue - The VOD agency then facilitates a conversation between the victim, offender, and support persons about the harm caused. The exact structure of the VOD varies from program to program, but typically the facilitator will help each party walk through their experiences and ask questions of the other.¹²⁴ Towards the end of the dialogue, an agreement is crafted where the offender specifically lays out how they will repair harm caused, and the agreement is signed by both parties.

4. Follow-up - After the dialogue, the facilitator informs the referring agency of the agreement. VOD staff monitor the completion of the agreement by the offender and keep the victim informed of the offender's progress. When the agreement is fulfilled, VOD staff typically schedule a follow-up meeting between the parties. If no final meeting is requested, VOD staff notify the victim of the agreement's completion. In both cases, the staff then follow up with the referring agency on the next steps required to close

the case, which may include the release of probation or other similar actions.¹²⁵

123 Amstutz, Lorraine Stutzman. *The Little Book of Victim Offender Conferencing: Bringing Victims and Offenders Together in Dialogue*. Intercourse, PA: Good Books, 2009.

124 Hansen, Toran, and Mark Umbreit. *State of Knowledge: Four Decades of Victim-Offender Mediation Research and Practice: The Evidence*. *Conflict Resolution Quarterly* 36, no. 2 (2018): 99–113. <https://doi.org/10.1002/crq.21234>.

125 *Ibid.*



Benefits of Victim-
Offender Dialogue
over Traditional
Justice Approaches

As one of the most studied community solutions to justice, VOD offers numerous, well-backed benefits over traditional prosecution. In the short term, both victims and offenders are more satisfied with the process than with traditional court proceedings, perceive the processes as fairer, and see higher completion rates of agreements and restitution paid than traditional justice approaches. In the long term, VODs can improve the attitudes of both the victim and offender towards each other, and the process likely significantly reduces offender recidivism.

Short-Term Benefits

Victim Satisfaction

Like the other programs in this report, VOD is a voluntary program, and victims often refuse to participate. Across numerous studies, approximately 40-60% of victims chose not to participate, either because they didn't see the time required to participate in a VOD as

necessary for the crime committed, feared meeting the offender, or wanted the offender to be more harshly punished.¹²⁶ However, for those victims that did participate, satisfaction rates are incredibly high. An average of 80-90% of participants report being satisfied with the process.¹²⁷ Additionally, injured parties may express feelings of empowerment and having a sense of emotional healing because they were involved in the process.¹²⁸

Offender Satisfaction

Similarly, offenders also report much higher satisfaction rates. Some studies suggest 80 to 90 percent of participants, including offenders, who participate in restorative processes and the resulting agreement are satisfied.¹²⁹ Other benefits for the offender found them being more empathetic to their victims, feeling empowered, and avoiding further involvement with the criminal justice system.¹³⁰

126 Umbreit, Mark S., Robert B. Coates, and Betty Vos. *Victim Impact of Meeting with Young Offenders: Two Decades of Victim Offender Mediation Practice and Research*. Restorative Justice for Juveniles : Conferencing, Mediation and Circles. Accessed August 28, 2022. <https://doi.org/10.5040/9781472559111.ch-007>.

127 *Ibid.*

128 Umbreit, Mark S. *Restorative Justice Through Mediation: The Impact of Offenders Facing Their Victims in Oakland*. Journal of Law and Social Work, 1995. <https://westerncriminology.org/documents/WCR/v01n1/Umbreit/Umbreit.html>.

129 Umbreit, Mark S., Robert B. Coates, and Betty Vos. *Victim Impact of Meeting with Young Offenders: Two Decades of Victim Offender Mediation Practice and Research*. Restorative Justice for Juveniles : Conferencing, Mediation and Circles. Accessed August 28, 2022. <https://doi.org/10.5040/9781472559111.ch-007>.

130 Shack, J. (n.d.). *40 Years of Victim-Offender Mediation Research: Benefits to Victims, Offenders, Courts and Community*. Just court ADR. Retrieved January 28, 2022, from <http://blog.aboutrsi.org/2019/research/40-years-of-victim-offender-mediation-research-benefits-to-victims-offenders-courts-and-community/>

Increased Perception of Fairness

Potentially because the focus of a VOD shifts from a powerful arbitrator, such as a judge, to the victim and offender, both participants often believe that the VOD process is fairer than the traditional justice system. In a study of burglary victims in Minneapolis, MN, 80% of burglary victims who participated in a VOD with their offender found the process fair, while only 37% of burglary victims perceived the traditional justice process as fair.¹³¹

High Agreement and Contract Completion Rates

VODs also tend to result in high agreement and contract completion rates. In a 2004 meta-analysis of several VOD studies, nearly 90% of VODs resulted in an agreement, while an average of around 80-90% of the contracts that came out of an agreement were completed.¹³²

Higher Restitution Paid

Finally, some research has also shown impressive increases not just in contract completion, but in the amount of restitution paid. One study in California looked at the amount of restitution paid by youth offenders who went through a VOD as opposed to youth that went through the traditional justice process, and found increases from 95% (Sonoma County) to over 1,000% (Los Angeles County) increase in restitution paid.¹³³

Long-Term Benefits

Changed Attitudes

Both victims' and offenders' attitudes may also change as a result of the VOD process. Victims can get an overall better understanding of offenders as well as "the nature and causes of crime, and a reduced sense of alienation as a result of this process." Offenders, on the other hand, have the ability to demonstrate their commitment to the com-

131 Umbreit, Mark S. (1989) *Crime Victims Seeking Fairness, Not Revenge: Towards Restorative Justice*. Federal Probation, Volume 53, Issue 3. 52-57. <https://www.ojp.gov/pdffiles1/Digitization/119864NCJRS.pdf>

132 *Ibid.*

133 Evje, Audrey, and Robert C Cushman. Rep. *A Summary of the Evaluations of Six California Victim Offender Reconciliation Programs*. The Judicial Council of California Administrative Office of the Courts, May 2000. <https://www.courts.ca.gov/documents/vorp.pdf>.

munity and show they are not “just a monster.”¹³⁴ One study of a Utah VOD program found that victims not only saw dialogue as a helpful process, but they had a better opinion of the offender after the process. Offenders agreed that they would recommend mediation to a friend and that they had a better understanding of how the victim was affected after the VOD process was complete.¹³⁵

Community Benefits

Potentially Reduced Recidivism

From 2002 until 2012, seven out of eight meta-analyses showed a small to a significant reduction in offender recidivism. The most recent meta-analysis by authors Wilson, Olaghere, and Kimbrell found, “...evidence regarding the effectiveness of these programs in reducing continued delinquent behavior is promising, but given methodological weaknesses of the literature, is not at a level that would allow for a strong positive conclusion. Simply stated, the results are promising but not conclusive.”¹³⁶

134 Amstutz, Lorraine Stutzman. *The Little Book of Victim Offender Conferencing: Bringing Victims and Offenders Together in Dialogue*. Intercourse, PA: Good Books, 2009.

135 Poulson, Barton, and Kathy Elton. *Participants' Attitudes in the Utah Juvenile Victim-Offender Mediation Program*. *Juvenile and Family Court Journal* 53, no. 1 (2002): 37–45. <https://doi.org/10.1111/j.1755-6988.2002.tb00054.x>.

136 Wilson, D. B., Olaghere, A., & Kimbrell, C. S. (2017). *Effectiveness of Restorative Justice Principles in Juvenile Justice: A Meta Analysis*. Department of Justice. Retrieved from <https://www.ojp.gov/pdffiles1/ojjdp/grants/250872.pdf>.

A photograph of three people standing on a rooftop, looking out over a city skyline at sunset. The scene is bathed in warm, golden light. The person on the left is a man with a short haircut, wearing a dark t-shirt. The person in the middle is a woman with long dark hair, wearing a dark t-shirt with 'AD3' printed on the back. The person on the right is wearing a white t-shirt and a yellow cap. The city skyline in the background is silhouetted against the bright sky.

Drawbacks of Victim-Offender Dialogue

There are some potential drawbacks to the VOD process as well. Offenders may feel pressured to waive their right to a trial even if they believe they are innocent, either the victim or offender may be reluctant to attend the dialogue, and there is a risk of revictimization with some crimes.¹³⁷

Lack of Understanding of the Process

Because an offender often waives their right to trial before entering a VOD, some critics are concerned that the offender, particularly if they are a youth, may not fully understand the implications of attending a VOD, and may be “pressured” into attending a VOD even if they are innocent.¹³⁸

Victim Reluctance

As discussed above, nearly half of all victims choose not to meet with an offender when given the opportunity.¹³⁹ Victims may see the

process as unnecessary, frightening, or too soft on the offender and refuse to participate.

Offender Reluctance

Offenders will often worry about facing their victims, even if they are in a controlled, safe environment. Offenders may fear that their victim may want to exact revenge against them; they feel the victim may ask an exorbitant amount of restitution or may resort to violence themselves.¹⁴⁰

Revictimization

With some crimes, VOD may carry a risk of revictimization. While there exists some evidence that VODs can be used to address the harms caused by very violent crimes, including one small study that worked with victims of a sniper attack,¹⁴¹ many experts advise caution in this area.¹⁴² In cases like these, placing the victim in a dialogue with the offender can lead to outcomes as severe as revictimization.

137 Amstutz, Lorraine Stutzman. *The Little Book of Victim Offender Conferencing: Bringing Victims and Offenders Together in Dialogue*. Intercourse, PA: Good Books, 2009.

138 Delgado, R. *Goodbye to Hammurabi: Analyzing the Atavistic Appeal of Restorative Justice Prosecuting Violence: A Colloquy on Race, Community, and Justice*. (2000) *Stanford Law Review*. 760-761. https://scholarship.law.ua.edu/cgi/viewcontent.cgi?article=1383&context=fac_articles

139 Amstutz, Lorraine Stutzman. *The Little Book of Victim Offender Conferencing: Bringing Victims and Offenders Together in Dialogue*. Intercourse, PA: Good Books, 2009. 57.

140 *Ibid.*

141 Umbreit, Mark S. (1989). *Violent Offenders and Their Victims*. In *Mediation and Criminal Justice* (M. Wright and B. Galaway, eds) pp. 99-112. Sage; London.

142 Umbreit, Mark S., William Bradshaw, and Robert B. Coates. *Victims of Severe Violence Meet the Offender: Restorative Justice through Dialogue*. *International Review of Victimology* 6, no. 4 (1999): 321–43. <https://doi.org/10.1177/026975809900600405>.

Victim-Offender Dialogue Case Study - Restorative Justice Mediation Program

Victim-Offender Dialogue Program

Summary

Organization: Restorative Justice Mediation Program

- Program: **Victim-Offender Dialogue Program**
- Location: **San Diego, CA**
- Established: **1993**
- Cases per year: **60-80**
- Average case length: **30-60 days**
- Average cost: **\$3,000-\$5,000**
- Caseload: **4-6% of juvenile delinquency cases in San Diego County, CA**
- Impact: **Over 80% of contracts completed, 91.5% did not reoffend after one year (based on a parent survey), and 75-80% of negotiated restitution recovered**

Operations

- Staff: **4**
- Volunteers: **12**

Support

- Community: **100%**
- Government: **0%**

Impact Story - Returning the Ring

In 2017, “Adrian” broke into several homes in a wealthy neighborhood in San Diego County. Instead of being sentenced for burglary, he was diverted to the RJMP Victim-Offender Dialogue program.

When Adrian and one of the homeowners he had stolen from, “Enrique”, sat down together in the dialogue, Enrique learned that Adrian and his family struggled with food insecurity. Enrique had also struggled with food insecurity growing up, and began to see Adrian as more of a struggling youth than just a burglar of his home.

At one point during the dialogue, Enrique told Adrian that he had stolen a prized family heirloom, a ring he really cared about. He had assumed it was lost forever after the burglary, but after talking to Adrian, sensed that he might be able to get it back.

He asked if Adrian could return it. Two weeks later, RJMP staff received the ring and were able to give it back to Enrique. Enrique ended up employing Adrian at his family business over the summer. RJMP’s

victim-offender dialogue program helped Enrique recover a prized ring, and helped give Adrian a pathway out of a life of crime.

History of RJMP’s Victim-Offender Dialogue Program

In the Mennonite Community, when a young member of the community causes harm, community members bring the youth together to talk with the victim and work to address that harm. Pearl Hartz, a member of that community, had been regularly doing these dialogues in San Diego before she started the Restorative Justice Mediation Program (RJMP). “Most of the dialogues were between neighbors or people with kids going to the same school,” Xiani Williams, Director of Programs at RJMP said. “At that time, it was mostly adults who just wanted to have a conversation with others.”

In 1993, RJMP started to informally take on criminal diversions from San Diego’s juvenile justice system. To date, 650 youth offenders have gone through RJMP’s Victim-Offender Dialogue program. The San Diego County DA’s office diverts approximately 60-80 youth offenders to the program every year, between 4-6%

of San Diego County's juvenile delinquency caseload.¹⁴³

How RJMP's Victim-Offender Dialogue Program Works

While, true to its roots, RJMP does take referrals directly from community members looking to repair harm, the vast majority of cases are referred to RJMP by the San Diego Juvenile Court. "I'd say over 90% of our referrals come directly from the court," Xiani says. The public defender and district attorney agree to divert a case, which is then sent to RJMP for screening.

The primary thing RJMP looks for in the case is whether or not there is a victim and identifiable harm, as opposed to "victimless crimes" like drug possession cases. The RJMP screener will also ensure the youth offender and their parents know the RJMP program is voluntary. "I do highly encourage them to go through the process because it's a diversion opportunity, but we don't want anyone going through the process if they don't want to participate," says Xiani.

Once the offender has been contacted and agrees to participate in the dialogue, the RJMP screener will contact the victim to explain the process and answer any questions. If both parties agree to proceed, the screen-

er will assign facilitators to the dialogue process.

Since all of their facilitators are volunteers, Xiani does her best to assign the facilitators she believes will be the best fit. "Some facilitators might want to work more with younger kids, or older kids, some facilitators will travel the entire county of San Diego while others won't travel as much, and we need to make sure the facilitator either speaks the language of the parties in dialogue or find a court translator before we start." RJMP assigns two facilitators to each case, a lead facilitator and a facilitator in training to watch and learn the process.

Once facilitators are assigned to the case, they will hold two pre-dialogue meetings, one with the youth offender and their parents and one with the victim. In those meetings, both parties have the opportunity to discuss with the facilitator what happened, express their feelings about the harm done, and talk about what they believe would be appropriate reparations. RJMP facilitators make sure the offender and victim lead this process. "We don't suggest any specific options. We let both of the parties come up with options, and we might provide technical help such as where to do the community service, if they want community service, but we don't suggest any specific reparation," Xiani says.

143 Rep. 2019 Court Statistics Report Statewide Caseload Trends. 140. Judicial Council of California, 2019. <https://www.courts.ca.gov/documents/2019-Court-Statistics-Report.pdf>.

In that process, facilitators will also make an assessment of whether or not the case should move forward to dialogue. “If the victim is too emotional or angry, or the offender is not taking responsibility for any of the harm, we wouldn’t move forward with the process,” says Xiani.

When both parties have agreed to the dialogue, facilitators help each party prepare for the conversation, often spending a significant amount of time with the youth offender. Facilitators may help the offender think about what they want to say at the dialogue, or if they’re particularly young, even help them write a script.

RJMP’s dialogue is fairly structured. First, the offender will speak about what happened from their point of view and answer questions. Then, the victim, their support person or parents (if the victim is a minor), and the offender’s parents will get to talk about how this harm affected them. The parent’s voice is an important part of the process, says Xiani. “A lot of the time parents don’t have a voice about how this has affected them too, as the parent of the offender, so they get to speak about that in the dialogue.”

Next, the dialogue focuses on reparations. Reparations can include community service, direct service, monetary restitution, or even personal goals the youth offender must complete. “A lot of the time the [reparation] agreement includes academic goals, such as graduating with a 3.5 GPA, something that is measurable and the court can determine if it has been achieved or not,” Xiani says.

The last part of the dialogue is “future intentions,” where the offender talks about what they plan to do to avoid causing this kind of harm again, such as attending an after-school program so they stay out of trouble. “This is really important to us,” says Xiani. “During future intentions is where the offender can help make the victim feel like this won’t happen again.” RJMP can also help the youth fulfill their future intentions by referring them to services, such as tutoring or another non-profit like a Boys & Girls club.

Once the youth offender and their parents sign the reparation agreement, RJMP monitors the process, and collects payments on behalf of the victim, to ensure the agreement is met. If the youth offender doesn’t fulfill their agreement, the case is sent back to court. If they fulfill their agreement, the court is notified and the case is dismissed.

Impact

\$3,000-5,000 Per Case	30-60 Days to disposition	8.5% Recidivism Rate
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RJMP ensures that in most cases the victims get the reparations they requested. In a survey of offenders that went through the program from 2019-2021, RJMP found that 80% of their youth offenders completed their agreements. In a survey of offender’s parents from the same period, 91.5% reported their child had not reoffended within one year of completing the program, compared to the

California Department of Juvenile Justice reconviction rate of 55.5%.¹⁴⁴

RJMP also touts the effectiveness of their restitution recovery, the total dollar amount negotiated between victims and offenders, as they are able to recover between 75-80% of the restitution negotiated.

Xiani says that a big impact of their program on a youth offender is actually meeting someone that has been affected by their actions. “A teenager might not think it’s a big deal to tag (graffiti) a wall or break into a school, because they can’t really put a face to anyone that has been harmed by their actions,” Xiani says. “It makes a big impact when they hear from, for example, a teacher that their six year olds were afraid to go to the classroom after what the youth did.”

This impact goes both ways. In one case, a group of youth offenders damaged a senior home in San Diego. After meeting with the kids, instead of demanding restitution, the city manager worked with RJMP to propose a different solution. When the city manager met with the kids, he said, “‘instead of going around and destroying things, why don’t we have you be a part of the new skate park we’re building?’ They actually integrated the kids into their committee so they could have input on what the skatepark looked like,” Xiani said.

Another big impact is that going through

RJMPs program helps a youth offender avoid any more contact with the juvenile justice system. “We do know that those youth who have any contact with the criminal justice system have a higher likelihood of being in the system, again, failing at school and things like that,” Xiani says.

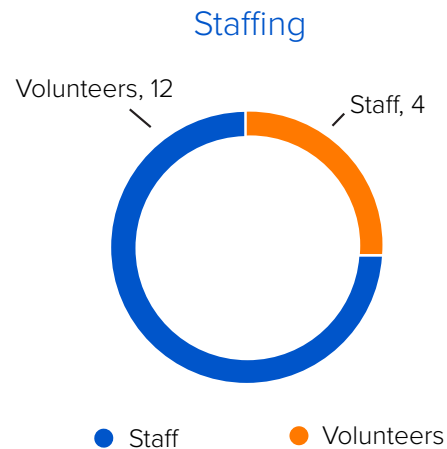
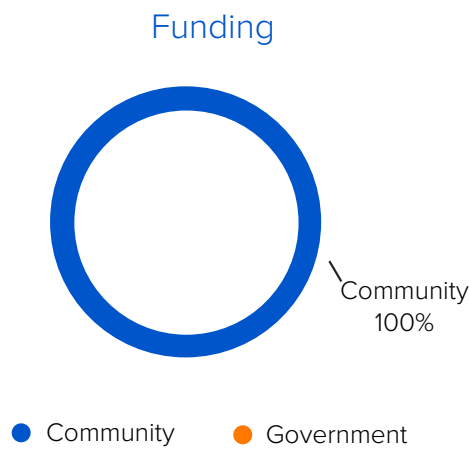
Once the youth are referred to RJMP, their contact with San Diego’s juvenile justice system ends. “The very tangible impact is that the youth offender won’t have a record or any kind of contact with the criminal justice system that could potentially prevent them from getting jobs, scholarships, and you know, we know the impact of all those things,” says Xiani.

On average, RJMP processes a case within 30-60 days. RJMP doesn’t charge anyone to participate in the program, but the cost to RJMP for each dialogue and the monitoring of agreements afterwards is \$3,000-\$5,000.

Why it Works

One big reason RJMP staff say that the program works is that the youth offender actually takes ownership of the process. Because the youth offender works directly with the victim to create a reparation agreement, they have a say in how their lives can turn out. “These kids feel like life is happening to them,” says Ian Ragsdale, RJMP’s Executive Director. “This is the first time they can make a decision on where they want things to go.”

144 Rep. 2017 Division Of Juvenile Justice Recidivism Report. California Department of Corrections and Rehabilitation, January 2019. https://www.cdcr.ca.gov/juvenile-justice/wp-content/uploads/sites/168/2020/10/2017-Division-of-Juvenile-Justice-Recidivism-Report_ADA.pdf.



RJMP staff also say that the high restitution recovery rate comes from how their program is structured. By negotiating monetary damages directly with the offender, they find that many victims will negotiate a restitution the offender can actually pay, sometimes innovatively. “Actually, it’s not very uncommon for us to have victims offering jobs to the youth,” Xiani says.

Funding & Support

RJMP’s victim-offender dialogue program is 100% community supported, including voluntary donations, volunteer hours, and fees for services. 4 staff are involved in the program, who receive cases, follow-up with participants, recruit and train volunteer facilitators, and manage relationships with stakeholders. RJMP also has 12 volunteer trained facilitators, who facilitate each of the dialogues.

How to Implement a Victim-Offender Dialogue Program in Your Community

RJMP staff have two specific pieces of advice for anyone who wants to implement a

victim-offender dialogue in their community: establish relationships with stakeholders and work with victim advocacy groups. First is engaging the stakeholders. While community referrals might one day make up the majority of RJMP’s referrals, right now they come from systems-involved stakeholders. Xiani especially recommends pitching the idea to the District Attorney and public defenders. “You have to really sell them on that idea first, because you have to work with the system in order to reform the system,” she says.

The second is working with victim advocacy groups. Because the victim gets to be involved in and drive the process, victim advocacy groups are often interested in victim-offender dialogue. They also serve as a natural funnel for cases for a new dialogue program, as they have a large number of victims that might seek a dialogue with a youth offender.

For advice on implementing a similar program in your community, contact RJMP at <https://www.sdrjmp.org/>.

Solution #5- Victim-Offender Dialogue

Introduction to Teen Court

States: **California, Florida, Indiana, New Mexico, New York, North Carolina, Tennessee, Virginia**

Estimate of Active Community Programs: **16**

Estimated Cases per Year: **110,000-125,000**

Case Types: **Criminal misdemeanor**



While many of the previous solutions can be geared towards adult populations, teen court is a promising solution to delivering speedy, fair, and effective justice specifically for juveniles. A teen court is a “peer justice” diversion program. It operates much like a traditional juvenile court, however unlike a traditional juvenile court, other teens serve as the court clerks, bailiffs, attorneys, jurors, and sometimes as judges. The starting point of teen courts is hotly disputed by researchers, but the popularity of these courts exploded after Natalie Rothstein of Odessa, Texas created her teen court program in 1983.

We were able to identify 16 community teen court programs in 8 states, though teen courts are likely far more widespread than that. A 2011 guide from the American Bar Association estimates that there are over a thousand teen court programs in the United States,¹⁴⁵ and they see 110,000-125,000 cases annually, though that number likely includes teen court programs run by traditional courts.¹⁴⁶

Teen courts generally follow a five-step process. First, the teen offender is diverted from the traditional juvenile justice system to a teen court. Secondly, the offender and their parent or guardian participate in an intake meeting where the offense is discussed, the teen court process is explained, and in some cases the teen undergoes psychological and/or alcohol and drug evaluations. Third, the teen participates in a hearing in front of a jury of their peers where they are asked questions about their offense and able to answer. Fourth, the teen jury hands down a sentence to the offender and a contract is signed indicating how the offender will repair the harm. Fifth, the contract is monitored and, if completed, the offender’s charges are removed from their record.

The benefits of teen courts overall have been largely inconclusive. Numerous studies have attempted to determine the impact of teen courts on recidivism, but the results have been mixed. One additional study found an increase in knowledge

145 National Association of Youth Courts. (2020). *The Significance of Youth Courts: The Mission of the National Association of Youth Courts*. National Association of Youth Courts. Retrieved May 17, 2022, from <https://youthcourt.net/the-significance-of-youth-courts/>.

146 Rep. American Bar Association. (2011). *Youth Cases for Youth Courts: A Guide to the Typical Offenses Handled by Youth Courts*. ii. <https://www.ojp.gov/pdffiles1/ojdp/237388.pdf>.

of court processes and positive attitudes towards judges. There are also some drawbacks to this model, including limited sentencing options since those recommending a sentence are minors, and a statistically insignificant additional impact on other attitudes and actions, such as drug use, self-reported delinquency, or increase in self-worth compared to the juvenile justice system.

History of Teen Court

The location and date of the first teen court is hotly disputed by researchers and practitioners, some placing it in California in the 1930s and others citing an informal youth court in Illinois in 1973.¹⁴⁷ However, several sources point to a 1949 edition of the Mans-

field News Journal that contained an account about a youth-operated court.¹⁴⁸ It was called the “Hi-Y” bicycle court in which teen judges saw cases about minor traffic violations involving bicycles. The sanctions were reported to be to write 300-word essays about traffic violations.¹⁴⁹

Other accounts of youth jury programs were reported by local newspapers during the 1960’s and early 70’s. Overall, teen courts remained largely in obscurity until the 1980’s.

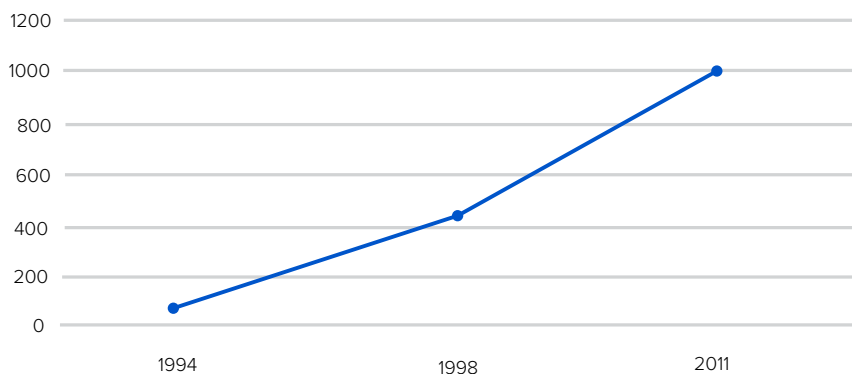
The first time teen courts gained national attention was when Natalie Rothstein of Odessa, Texas began championing the cause. Ms. Rothstein had founded the Odessa Teen Court Program in 1983 and strongly advocated for constructive approaches to

147 Harrison, Paige, James R. Maupin, and G. Larry Mays. *Are Teen Courts an Answer to Our Juvenile Delinquency Problems?* *Juvenile and Family Court Journal* 51, no. 4 (2000): 27–35. <https://doi.org/10.1111/j.1755-6988.2000.tb00030.x>.

148 Higgins, P., & Mackinem, M. (2009). *History of Youth Court Movement*. In *Problem-solving courts: Justice for the Twenty-first century?* (pp. 162–177). essay, Greenwood Press.

149 Butts, J. A., & Wilson, J. B. (2002, March 1). *The Sudden Popularity of Teen Courts*. *Urban Institute*. Retrieved

Teen Court Programs in the United States



intervening with youth and holding them accountable. Until her death in 1993, she gave presentations at juvenile justice conferences, penned articles in national journals, and promoted the teen court model nationwide.¹⁵⁰

According to the National Youth Court Center, by 1994 there were 78 youth court programs across the country.¹⁵¹ Shortly afterward, the U.S. Department of Justice and the U.S. Department of Health and Human Services began allocating resources in support of the teen court concept. National associations such as the American Probation and Parole Association, the American Bar Association, and the National Council of Juvenile and Family Court Judges also

began promoting and advancing the methods amongst their members.¹⁵² By 1998, the number of teen courts swelled to a number between 400 and 500.¹⁵³

With the rapid increase of teen courts throughout the 1990s and early 2000s, the National Association of Youth Courts was founded and it held its first national conference in 2007.¹⁵⁴ Today, according to the National Association of Youth Courts, teen courts operate in 49 states and the District of Columbia. We were able to identify 16 community teen court programs in 8 states, though teen courts are likely far more widespread than that. A 2011 teen court guide from the American Bar Association estimates that over a thousand teen court programs

May 18, 2022. <https://www.urban.org/sites/default/files/publication/45456/1000262-The-Sudden-Popularity-of-Teen-Courts.pdf>.

150 Office of Juvenile Justice and Delinquency Prevention, Goodwin, T. M., Steinhart, D. J., & Fulton, B. A., *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs*, November 1998 Update (1998). Available online: <https://ojjdp.ojp.gov/library/publications/peer-justice-and-youth-empowerment-implementation-guide-teen-court-programs-0>.

151 Stickle, Wendy Povitsky, Nadine M. Connell, Denise M. Wilson, and Denise Gottfredson. *An Experimental Evaluation of Teen Courts*. *Journal of Experimental Criminology* 4, no. 2 (2008): 137–63. <https://doi.org/10.1007/s11292-008-9050-8>.

152 OJJDP, Goodwin, T. M., Steinhart, D. J., & Fulton, B. A., *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs*, November 1998 Update (1998). Available online: <https://ojjdp.ojp.gov/library/publications/peer-justice-and-youth-empowerment-implementation-guide-teen-court-programs-0>.

153 Stickle, Wendy Povitsky, Nadine M. Connell, Denise M. Wilson, and Denise Gottfredson. *An Experimental Evaluation of Teen Courts*. *Journal of Experimental Criminology* 4, no. 2 (2008): 137–63. <https://doi.org/10.1007/s11292-008-9050-8>.

154 OJJDP, Goodwin, T. M., Steinhart, D. J., & Fulton, B. A., *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs*, November 1998 Update (1998). Available online: <https://ojjdp.ojp.gov/library/publications/peer-justice-and-youth-empowerment-implementation-guide-teen-court-programs-0>.

operate throughout the United States today,¹⁵⁵ and see 110,000-125,000 cases annually,¹⁵⁶ though that number likely includes teen court programs run by traditional courts.

How Teen Court Works

Unlike many of the other programs in the report, teen courts operate very similarly to the traditional juvenile justice system. The main difference is that instead of being tried and sentenced by adults, the teen offender is tried and the sentence recommended is handed down by other teenagers, including, in some cases, former teen offenders serving on the teen jury.

Teen courts vary in the kind of court actors involved. Some teen courts have teens in all court officer positions, including as judge, some teen courts have teen attorneys while still others let the jury directly question the teen offender.¹⁵⁷

Some teen courts also integrate the principles of restorative justice, such as requir-

ing admission of guilt before entering the program and utilizing Braithwaite's theory of reintegrative shaming,¹⁵⁸ though other practitioners dispute whether those can truly be counted as a teen "court," since guilt is decided before entry into the court.¹⁵⁹

There are numerous teen court models, so no process will fully encapsulate all types of teen courts. However, teen courts typically follow the following five-step process.

1. Referral - The teen offender is referred to the teen court by a court officer or law enforcement official.

2. Intake meeting - The teen offender, usually accompanied by a parent, attends an intake meeting to learn more about the teen court process and be evaluated for suitability. In the meeting, the teen court staff will explain to the teen and their family how the teen court works, what the sentence may look like, and in some cases, take evaluations related to psychological health and /or drug and alcohol use.

155 National Association of Youth Courts. (2020). *The Significance of Youth Courts: The Mission of the National Association of Youth Courts*. National Association of Youth Courts. Retrieved May 17, 2022, from <https://youthcourt.net/the-significance-of-youth-courts/>.

156 Rep. American Bar Association. (2011). *Youth Cases for Youth Courts: A Guide to the Typical Offenses Handled by Youth Courts*. ii. <https://www.ojp.gov/pdffiles1/ojtdp/237388.pdf>.

157 Butts, J. A., & Wilson, J. B. (2002, March 1). *The Sudden Popularity of Teen Courts*. Urban Institute. Retrieved May 18, 2022, from <https://www.urban.org/sites/default/files/publication/45456/1000262-The-Sudden-Popularity-of-Teen-Courts.pdf>.

158 Office of Juvenile Justice and Delinquency Prevention, *Literature Review* § (2010). https://ojtdp.ojp.gov/model-programs-guide/literature-reviews/teen_youth_court.pdf.

159 Researcher conversation with Scott Peterson, Executive Director of Global Youth Justice, April 19th, 2022.

3. Court hearing - The teen offender appears in a court hearing, sometimes with a teen attorney, to hear the charges brought against them. A judge, sometimes a teen and sometimes an adult, presides. The teen jury asks questions about the harm caused and the teen pleads to the charges. In some more restorative courts, the teen jury questions the offender about challenges in their background and what they believe they can do to repair the harm caused.

4. Sentencing - Then, the teen jury leaves the hearing room to deliberate their recommended sentence for the offender. After deliberation, the teen jury delivers their recommendations, which often include community service, restitution, or apology letters. The teen offender and their guardian are then given the opportunity to agree to the recommended sentence or send their case back to traditional juvenile court.

5. Monitoring - If the teen offender and their guardian agree to the sentence, teen court staff monitor sentence completion over time. Once the contract has been completed, teen court staff submit the contract to the referring court, and have the charges removed from the teen's record. In some courts, a graduation ceremony is held that celebrates the teen completing their sentence.

Benefits of Teen Court over Traditional Justice Approaches



While there have been few conclusive studies on the impacts of teen courts, two benefits offer potential - reduced recidivism and changed attitudes about the justice system.

Short-Term Benefits

Changed Attitudes towards the Justice System

One benefit may be improved attitudes of teens towards the justice system. A 2001 study by Logalbo and Callahan found that teen court participants had an increased knowledge of how the justice system works and increased positive attitudes towards judges in general.¹⁶⁰

Community Benefits

Potentially Reduced Recidivism

Given the widespread nature of teen courts, there have been numerous studies attempting to establish whether teen courts ultimately reduce youth recidivism. There have been some promising studies. In one 2002 multi-state study, youth participants in an Alaska teen court recidivated at 6%, compared to 23% of youth offenders, while youth offenders in a Missouri teen court recidivated at 9% and 27% respectively.¹⁶¹ However, due in part to the fact that there are so many variations in the setup of teen courts, numerous meta-analyses have not so far found a statistically significant difference in recidivism overall¹⁶² so these should be taken with caution.¹⁶³

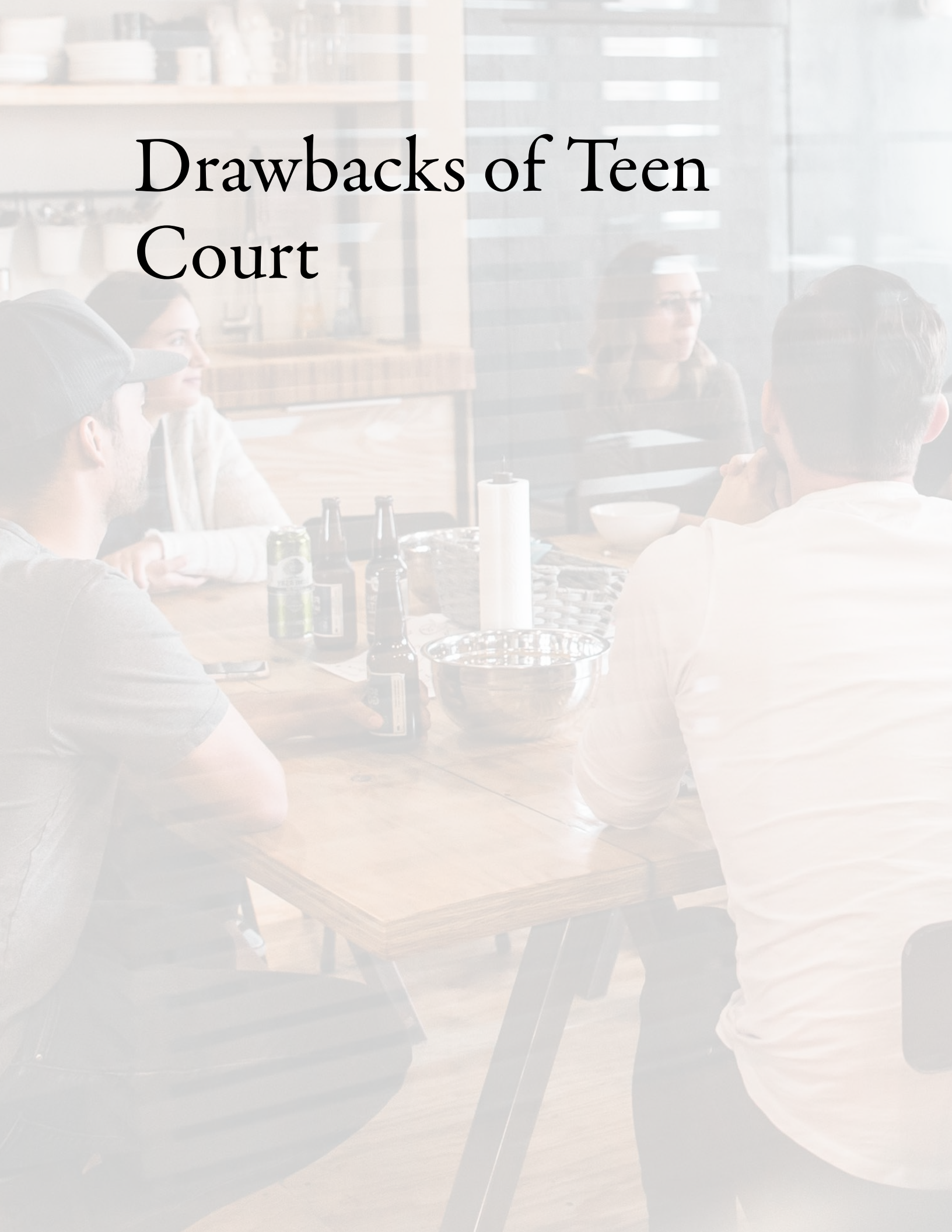
¹⁶⁰ Gase, Lauren N., Taylor Schooley, Amelia DeFosset, Michael A. Stoll, and Tony Kuo. *The Impact of Teen Courts on Youth Outcomes: A Systematic Review*. *Adolescent Research Review* 1, no. 1 (2015): 51–67. <https://doi.org/10.1007/s40894-015-0012-x>.

¹⁶¹ Butts, Jeffrey A, and Jennifer Ortiz. Rep. *Teen Courts – Do They Work and Why?*, January 2011. <https://drj.fccourts.org/uploads/Teen%20Court%20Article.pdf>.

¹⁶² Gase, Lauren N., Taylor Schooley, Amelia DeFosset, Michael A. Stoll, and Tony Kuo. *The Impact of Teen Courts on Youth Outcomes: A Systematic Review*. *Adolescent Research Review* 1, no. 1 (2015): 51–67. <https://doi.org/10.1007/s40894-015-0012-x>.

¹⁶³ Cotter, Katie L., and Caroline B. Evans. *A Systematic Review of Teen Court Evaluation Studies: A Focus on Evaluation Design Characteristics and Program Components and Processes*. *Adolescent Research Review* 3, no. 4 (2017): 425–47. <https://doi.org/10.1007/s40894-017-0056-1>.

Drawbacks of Teen Court



There are a few potential drawbacks to this solution as well, including that, because teen jurors are minors, sentencing options are often limited, and that if teen court changes other attitudes or actions outside of views towards the judicial system, they have yet to be empirically proven.

Limited Sentencing Options

Because teens sentence their peers in teen courts, sentencing options are understandably limited. However, there may be an overreliance on certain options like apology letters and community service as opposed to others. One meta-analysis found that while sentencing options can vary by court, the vast majority of teen court sentences are community service¹⁶⁴ leaving out other potentially more effective sanctions.

Attitudes and Actions

One other potential drawback is a limited effect on other attitudes and actions proponents hope teen courts will create. Five different studies, including the 2001 study mentioned above, have examined the effects of teen courts on participant attitudes and actions, with few showing any significant effects on drug use, self-reported delinquency, or increase in self-worth compared to the juvenile justice system.¹⁶⁵

Limited Effects on other

Impact Story - Catching Fire

164 *Ibid.*

165 Gase, Lauren N., Taylor Schooley, Amelia DeFosset, Michael A. Stoll, and Tony Kuo. *The Impact of Teen Courts on Youth Outcomes: A Systematic Review*. *Adolescent Research Review* 1, no. 1 (2015): 51–67. <https://doi.org/10.1007/s40894-015-0012-x>.

Teen Court Case Study - Council on Alcoholism and Drug Abuse

Teen Court Program

Summary

Organization: Council on Alcoholism and Drug Abuse

- Program: **Teen Court**
- Location: **Santa Barbara, CA**
- Established: **1993**
- Cases per year: **500+**
- Average case length: **45 days**
- Average cost: **\$1,000/case**
- Caseload: **48% of juvenile delinquency cases in Santa Barbara County, CA**
- Impact: **85%-90% of youth complete the teen court program, between 85-92% of youth did not commit a similar or more serious offense within one year after graduating from the program.**

Operations

- Staff: **2**
- Volunteers: **54 adults, 350 youth**

Support

- Community: **63%**
- Government: **37%**

In sixth grade, Luis made a big mistake. Playing around in an avocado grove near his home, he placed a smoke bomb in a snake pit. Then the field caught fire. Surrounding fields also caught fire, and the Santa Barbara Fire Department eventually had to fly in air support to calm the raging inferno.

Luis was facing felony charges, but the assistant DA diverted him to teen court instead. In teen court, CADA staff found that Luis's mother was a functional heroin addict, and Luis wasn't home because drug dealers had been banging on his mother's door for payment. The teens in the court sentenced him to treatment and to volunteer to clean trucks at the local fire department over the summer.

15 years later, Luis ran into Ed Cue, Director of CADA's teen courts program, as a full-fledged firefighter and introduced him to his captain. CADA's teen court program had not only diverted Luis from serious criminal charges, but gave him a new direction he could take in his life. Instead of being another statistic, Luis is an example of teen court's power to change a young person's life.

History of CADA's Teen Court Program

In 1993, Santa Barbara County, CA, Judge Thomas Adams saw what he believed was a "revolving door" of kids coming back to juvenile court again and again. Worse still, he was seeing those same kids appear again in adult court. After hearing about a teen court program in Odessa, TX, he brought the idea back to Santa Barbara. "Everybody said he was crazy, that teenagers could not operate a program like this," said Ed Cue, now the Director of the Teen Court program under CADA. "But he stood firm and held his ground."

After the local nonprofit that first ran the teen court program went under, teen court was picked up by the Council on Alcoholism and Drug Abuse. "We'd seen that 75% of the teens that were screened at the intake assessment were screening use or abuse of alcohol or drugs," Ed says. CADA's teen court is now a key part of Santa Barbara County's continuum of responses to juvenile crime, handling, on average, 48% of juvenile delinquency cases in the county.¹⁶⁶

CADA now operates teen courts in several locations in Santa Barbara County, including Santa Barbara, Santa Maria, and Santa Ynez. Over the past 29 years, CADA's courts have diverted over 8,000 cases out of Santa Barbara County juvenile court, including 65 in 2021.

How CADA's Teen Court Works

CADA's teen court program is designed with both court and treatment in mind. Because such a high percentage of the youth served by the courts struggle with mental health and substance abuse issues, having in-house treatment after sentencing "really helps get a lot of teens the help they need and helps parents engage in treatment services that are otherwise impossible to navigate," Ed says.

The courts accept minors from ages 10-17 for most misdemeanor offenses. Offenders are referred to the courts by probation, which is often pre-trial for California youth, as well as local police and sheriff's departments. On receiving a referral, Ed or another adult court volunteer will meet with the youth for screening. During screening, the adult volunteer will attempt to determine the youth's needs outside of just the crime that they committed. "We go through different screening tools

and we ask what are this particular youth's needs? What are we learning about who they are?," Ed says.

The adult volunteer also performs a behavioral wellness and substance abuse screening. Ed says the screening process is necessary because the crime doesn't always tell them how to serve the youth best. "This young person will come in for fighting, but we [can] see that based upon the screening, they have a mental health issue, or there are some substance abuse issues that led to this," he says.

On their court date, an adult volunteer, typically an attorney or superior court judge, serves as the judge, but their role is primarily to keep order in the courtroom. The youth speaks directly with the jury the majority of the time. "If the jury is going to determine the sentence, they're asking the questions," Ed says.

Unlike juvenile court, teen court is of, by, and for teenagers. All of the jurors are teenagers. "What we found is that that power of peer influence had a significant effect on the teenagers coming into the courtroom process and completing the terms of contract," says Ed.

Some of the jurors are even youth offenders that are serving on the jury as part of their

Courts on Youth Outcomes: A Systematic Review. Adolescent Research Review 1, no. 1 (2015): 51–67. <https://doi.org/10.1007/s40894-015-0012-x>.

sentence. Ed says this really helps the youth internalize the teen court experience. “While the sentence may seem harsh at first, it becomes very clear when they become part of the jury...part of the intervention that continues even after their case is over is when they get to sit on the panel and hear a number of cases themselves.”

After the jury and the youth exchange questions and answers, the jury will deliberate the case and deliver a sentence that can include community service, nights of jury duty, letters of apology, educational classes, or youth services. The youth offender gets to hear the justification for each of the items in their sentence. “The judge may pick a juror from the pool and ask them ‘Why did you guys suggest this?’ ‘Did you think the [young person] was honest?’ ‘Do you think the [youth] was respectful to the court?’” Ed says.

At the end of sentencing, the youth is asked if they agree to the terms of their sentence, which most do. When the youth agree, CADA staff forwards that sentence to their referring agency, and then monitors the completion of that sentence.

Once the teen completes their sentence, they participate in a graduation ceremony. “For some of these kids, they’ve never had success before. For them to be able to com-

plete the terms and contract of teen court is a huge success,” Ed says.

Impact

\$1000 Per Case	45 Days to disposition	8-15% Recidivism Rate
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Impact data backs up the teen court program’s effectiveness, both in contract completion and recidivism, over several decades. Since 1993, 85-90% of the youth sentenced by teen court completed their sentences. Data from the Santa Barbara County Probation Department from 2003-2017 found that between 85-92% of youth did not commit a similar or more serious offense within one year after their contract was completed, compared to the California Department of Juvenile Justice re-conviction rate of 55.5%.¹⁶⁷

Another big impact Ed sees is on the attitude of youth offenders when they come into the court. “There are going to be some teenagers that come into the program kicking and screaming,” but he says that somewhere in the middle of the program, whether it’s going to counseling, attending a remedial class, or participating on the jury themselves, things change.

“All of a sudden, you see the light going on

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Rep. 2017 Division Of Juvenile Justice Recidivism Report. *California Department of Corrections and*

within these kids, and you see that in the questions that they're asking the other teens in the courtroom, because now they're asking intelligent questions and because they're using their experience, not in a show off type of way, but in a I'm trying to help you kind of way," Ed says.

For the parents of the kids in trouble, teen court often helps communicate to their child what they've been trying to communicate all along. "Those parents are coming in and saying, Eddie, you know what, the conversation that you've had with my child during intake, those are the things that we've been wanting to say for a long time," Ed says. "[They'll say] 'I didn't know what to expect when I went to the court. But when I walked out of that court and I saw how those kids were very responsible and how they came across, that totally caught me off guard.'"

Perhaps the greatest long term impact is that since the court is set up with a treatment, as opposed to punishment, model it can really help teenagers figure out what they want to do in their lives. Former youth offenders in CADA's teen court have become police detectives, firefighters, event planners, and more. "[Completing teen court] allowed them to say, Hey, you know what, I'm on better ground. Now I see where I can win here."

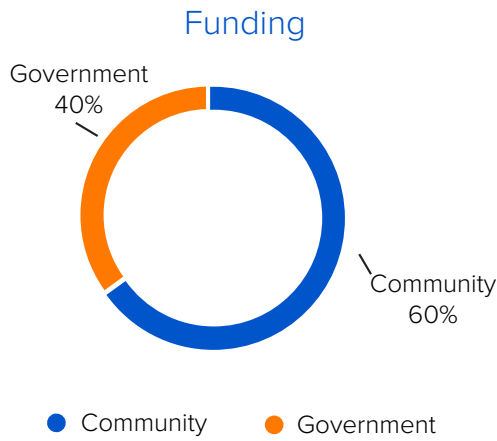
While CADA charges \$250 to the family of the youth offender, no family is turned away for inability to pay. The average cost of teen court, plus treatment services, to CADA is \$1,000. This can increase with treatment services, but medicare and private insurance often offset that cost.

Why it Works

Ed emphasizes that a big reason teen court works is because it isn't set up to punish the youth offender, but to deal with their underlying needs. "We tell the teen jurors that their sentence is not designed to be punitive, it is designed to be corrective. The decisions you make can change or save a life." The screening, the corrective approach from the jury, and the teen court-to treatment model are all designed to address the underlying challenges the teen is facing. If they didn't do that, Ed says, "[the] mitigating factors were going to have a crushing effect on this child's life for the rest of their lives."

Another reason the model works is because of how quickly the court processes cases. It may take months for a teen to be heard in juvenile court. "We knew if we closed those windows, from citation to some treatment, teenagers were more apt to succeed." Ed says the court has gotten that window down significantly. "It could have been 9 month

Rehabilitation, January 2019. https://www.cdcr.ca.gov/juvenile-justice/wp-content/uploads/sites/168/2020/10/2017-Division-of-Juvenile-Justice-Recidivism-Report_ADA.pdf.



windows, but we're able to get it down to 45 days. Some cases are even faster than that." The final thing Ed believes makes teen court work is hope. "I think from my experience working in corrections, I worked with a large population of young men and women that did not have hope. Because they did not have hope they could not have a dream of their future. Because they did not have a dream of their future they were more apt to reoffend and become involved in delinquent or felonious acts."

Because of this, the teen court operates like a mentorship program for youth offenders. Ed does his best to make sure to show the teen a better path for their skills than crime. After completing teen court, when Ed asked her what she really wanted to do, a young offender said she wanted to become a police officer. Ed got her lunch with the police chief. "He made the time for that. And so we took her to lunch. So she ended up going to lunch, meeting the chief." That young lady is now a police detective. "I'm not your parole agent. I'm your success coach. My job is to make sure you complete the program successfully and get something out of it," Ed says.

Funding & Support

CADA's Teen Court program is 63% commu-

nity supported, including voluntary donations, volunteer hours and fees for services, and 37% government supported through national, state, and local contracts and grants.

2 staff are involved in the program, who provide case management and support for youth offenders, run intervention classes or groups, operate the court, and provide clerking services. 54 adult volunteers, typically attorneys or judges, volunteer for the bench and help with court operations, case management, and intervention services. 350 youth volunteers serve as jury members.

How to Implement a Teen Court in Your Community

To implement teen court in another community, Ed recalls the lessons learned when they created a similar teen court in Santa Maria, CA. The first is to build the teen court around the community it is designed to serve. "They are different communities, with different populations, and different challenges," Ed says. "In Santa Barbara county, we have this urban, suburban population, with all the richness that takes place here, while Santa Maria is very gang-oriented, more apt to have weapons and guns pulled, people getting shot and killed."

The second thing is to bring that community into the design of the court. Ed says this is what really opens the door for the community to be able to use it. “We asked the schools, we asked the community leaders, we asked them how are we going to shape it? What services are we going to put in your community? Where?”

Finally, continuing the trend, Ed says that the ultimate goal should be to let the community own the court and the services around it. When he was building a collaborative around the teen court in Santa Maria, he says that one of the members approached him and asked how the court could be expanded to cover other needs in the community. Ed helped them get funding to add those additional services.

“And as a result of that, they were able to build upon [teen court] for themselves. They took ownership of it. That collaboration built an opportunity for that community to try to create, to build their own destiny with their own people.”

For advice on implementing a similar program in your community, contact CADA at <https://cadasb.org/>.



Appendix 1

Additional Resources

While our research initially looked at one specific issue - court backlogs, what we found instead was a panoply of community justice programs, nearly 200, in nearly every state of the union, that offer promise to help community leaders, advocates, and citizens bring speedy, fair, and effective justice to their communities.

We've compiled a list of helpful resources for implementing these solutions in your community below.

[Solution #1 - Arbitration](#)

[The American Arbitration Association](#)

The American Arbitration Association (AAA) is the nation's foremost arbitration service organization. The AA develops rules and procedures, educational resources, and research on arbitration.

<https://www.adr.org/>

[JAMS Foundation](#)

The Justice and Mediation Services, Inc (JAMS) foundation provides financial assistance for conflict resolution initiatives and shares its dispute resolution experience

for the public interest. To date, the JAMS Foundation has contributed over \$11 million to support conflict prevention and dispute resolution initiatives across the U.S. and around the world.

<https://www.jamsadr.com/jamsfoundation/>

[Solution #2 - Community Mediation](#)

[The National Association for Community Mediation](#)

The National Association for Community Mediation (NAFCM) provides tools, resources, grants, and support for individuals looking to set up a community mediation center or program in their community. On NAFCM's website you can access a directory of centers by state, download studies and research material on community mediation, and get one-on-one assistance through grants and NAFCM's Emerging Centers program.

<https://www.nafcm.org/>

The National Conflict Resolution Center

The National Conflict Resolution Center (NCRC) offers training and resources for conflict resolution professionals and those new to the field. On NCRC's website you can sign up for training in mediation and restorative practices, invite NCRC to deliver no-cost conflict resolution workshops for your neighborhood or community organization, and access capacity-building resources at their Center for Community Cohesion.

<https://www.ncrconline.com/>

Resolution Systems Institute

The Resolution Systems Institute (RSI) develops, designs, and researches court-focused alternative dispute resolution systems and approaches, including mediation. On RSI's website, you can search published studies on mediation benefits and drawbacks, get mediation training, and access RSI services including mediation program design assistance.

<https://www.aboutrsi.org/>

Highlighted Programs

You can also reach the organizations listed as case studies in this report for help setting

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up a community mediation program in your community. Contact the Dispute Resolution Center of Thurston County (DRCTC) for details on general community mediation, and the New York Peace Institute (NYPI) for small claims mediation programming assistance.

DRCTC: <https://www.mediatethurston.org/>

NYPI: <https://nypeace.org/>

Solution #3 - Restorative Conferencing

International Institute for Restorative Practices

The International Institute for Restorative Practices (IIRP) is a graduate school established to examine, teach, and develop restorative practices, including restorative conferencing. On IIRP's website you can find basic information on restorative justice, conferencing, and circles, earn professional development certificates, and explore graduate work in restorative justice.

<https://www.iirp.edu/>

Professor Kathleen Daly

Kathleen Daly is Professor of Criminology and Criminal Justice, Griffith University (Brisbane). She writes on gender, race, crime, and criminal justice; and on restorative, Indigenous, and transitional justice. Her recent work is on conventional and innovative justice responses to violent victimisation; and on redress for institutional abuse of children in international context.

<https://www.griffith.edu.au/criminology-institute/our-researchers/professor-kathleen-daly>

Restorative Justice Exchange

The Restorative Justice Exchange (RJE), by Prison Fellowship International, hosts one of the largest libraries of restorative justice resources on the internet. On the RJE archive, you can find handbooks, studies, guides, and more related to restorative practices, including conferencing and circles.

<https://restorativejustice.org/>

Restorative Justice Project

The Restorative Justice Project (RJP), by Impact Justice, is a nationwide technical assistance program for those looking to start pre-trial restorative programs in their

community. On the RJP's website you can download getting-started toolkits, get access to convenings of others interested in starting restorative programs, and get one-on-one technical assistance for starting a pre-trial restorative program in your community.

<https://impactjustice.org/>

Restorative Response

Restorative Response is a restorative conferencing organization in Baltimore, MD, that offers training and assistance to those looking to start a restorative conferencing program in their community.

<https://www.restorativeresponse.org/>

Highlighted Program

The Longmont Community Justice Project (LCJP)'s Training Institute offers interactive training for anyone looking to start a restorative conferencing program in their community, law enforcement professionals interested in justice, and individuals hoping to learn how to facilitate restorative conferences.

<https://www.lcjp.org/>

Solution #4 - Victim-Offender Dialogue

National Institute of Corrections

The National Institute of Corrections (NIC), a division of the Department of Justice, offers handpicked resources on victim-offender dialogue/mediation. On NIC's website, you can find example VOD programs, research, and tools such as exit interviews and guides, that can help you set up a victim-offender dialogue program in your community.

<https://nicic.gov/resources-victim-offender-dialogue>

Highlighted Program

You can contact our case study, the Restorative Justice Mediation Program, for advice on how to create a victim-offender dialogue program in your community.

<https://www.sdrjmp.org/>

Solution #5 - Teen Court

Global Youth Justice

Global Youth Justice (GYJ) drives the creation of teen courts around the country and around the world. On GYJ's website, you can find a directory of teen courts around the world, research on teen courts, resources for starting a teen court in your community, and training on teen court best practices and approaches.

<https://www.globalyouthjustice.org/>

National Association of Youth Courts

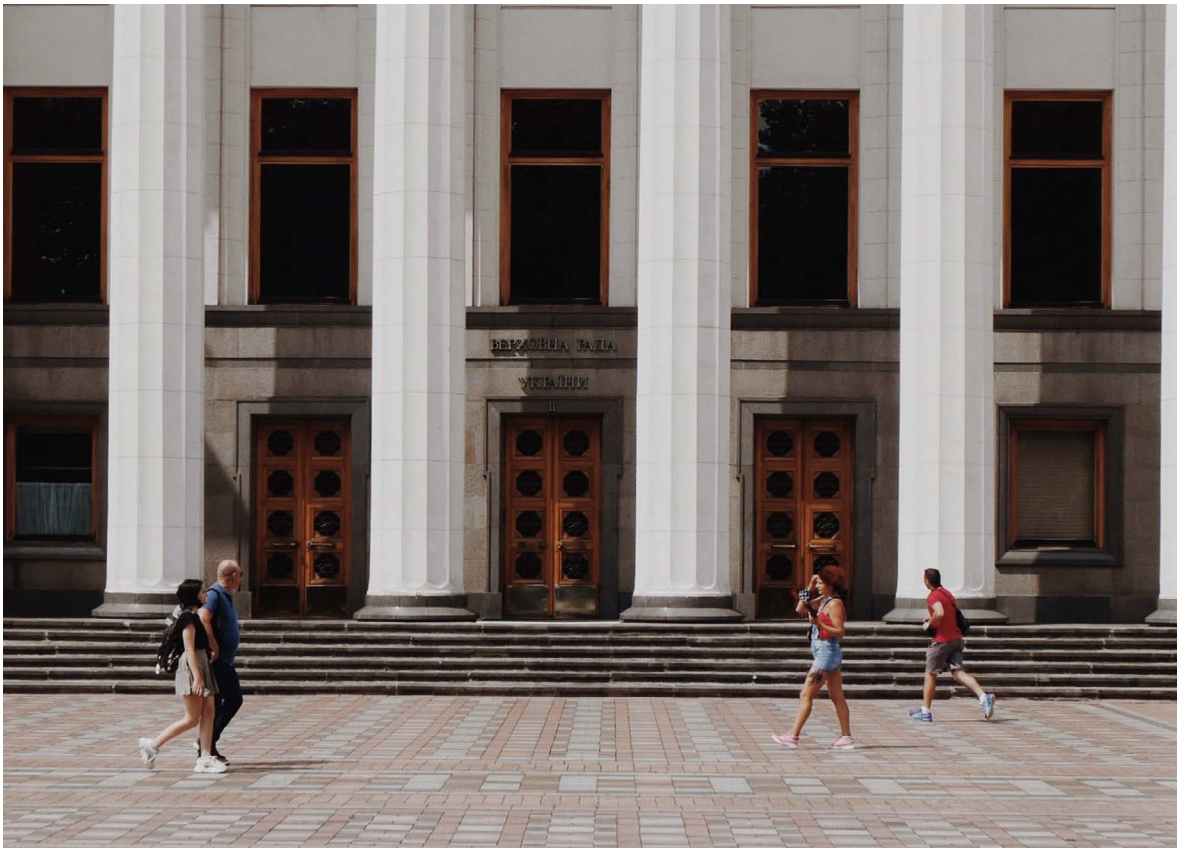
The National Association of Youth Courts (NAYC) provides information, offers technical support, and delivers resources to advance and improve teen courts around the country. On NAYC's website, you can find teen court planning guides, arguments for stakeholders, youth court guidelines, and contact specialists to help you get a teen court started in your community.

<https://youthcourt.net/>

Appendix 2

Community Justice Programs by State

Below is a list of the 174 active community justice programs we identified, and what community justice approaches they utilize. Each organization was verified to be active through the IRS Tax Exempt Organizations Search (TEOS) database and their secretary of state, however, we cannot guarantee that any specific program is active today.



State	Organization Name	Organization Website	Programs
Arizona	Our Family Services	https://www.ourfamilyservices.org/	Community Mediation
Arkansas	Arkansas Community Dispute Resolution Centers	http://www.acdrc.net/	Community Mediation
California	Asian Pacific American Dispute Resolution Center	https://apadrc.org/	Community Mediation, Restorative Conferencing, Victim-Offender Dialogue
California	Centinela Youth Services	https://www.cys-la.org/	Community Mediation
California	Community Boards	https://communityboards.org/	Community Mediation
California	Conflict Resolution Center of Nevada County	https://resolveconflicts.org/	Community Mediation
California	Conflict Resolution Center of Santa Cruz County	https://www.crcsantacruz.org/	Community Mediation, Victim-Offender Dialogue
California	Council on Alcoholism and Drug Abuse	https://cadasb.org/	Teen Court
California	Humboldt Mediation Services	https://www.humboldtmediationservices.org/	Community Mediation
California	National Conflict Resolution Center	https://www.ncrconline.com/	Community Mediation
California	OC Human Relations	https://www.ochumanrelations.org/	Community Mediation
California	Recourse Mediation	http://www.recoursemediation.com/	Community Mediation
California	Restorative Justice Mediation Program	https://www.sdrjmp.org/	Victim-Offender Dialogue
California	SEEDS Community Resolution Center	https://www.seedscrc.org/	Community Mediation
California	Yolo Conflict Resolution Center	https://yolocrc.org/	Community Mediation
California	Environmental Mediation Center	https://www.emcenter.org/	Community Mediation
Colorado	Longmont Community Justice Partnership	https://www.lcjp.org/	Restorative Conferencing
Colorado	The Conflict Center	https://conflictcenter.org/	Restorative Conferencing

State	Organization Name	Organization Website	Programs
Delaware	Delaware Center for Justice	http://www.dcjustice.org/	Restorative Conferencing
Delaware	Victims' Voices Heard	https://www.victimsvoicesheard.org/	Victim-Offender Dialogue
District of Columbia	Community Mediation DC	https://communitymediationdc.org/	Community Mediation
Florida	Sarasota Teen Court	https://www.sarasotateencourt.org/	Teen Court
Georgia	Mediation Savannah	https://mediationsavannah.com/	Community Mediation, Restorative Conferencing
Hawaii	Environmental Mediation Center	https://www.emcenter.org/	Community Mediation
Hawaii	Kauai Economic Opportunity Inc	https://www.facebook.com/kauaieconomicopportunityINC/	Community Mediation
Hawaii	Ku' Ikahi Mediation Center	https://hawaiiimmediation.org/	Community Mediation
Hawaii	Maui Mediation Services	https://www.mauimmediation.org/	Community Mediation
Hawaii	The Mediation Center of the Pacific	https://www.mediatehawaii.org/	Community Mediation
Hawaii	West Hawai'i Mediation Center	https://whmediation.org/	Community Mediation
Illinois	Center for Conflict Resolution	https://www.ccrchicago.org/	Community Mediation
Illinois	Dispute Resolution Institute	http://www.dri-inc.org/	Community Mediation
Illinois	Prairie Land Conflict Mediation Center	https://plmediation.org/	Community Mediation
Indiana	Center for Community Justice	https://www.centerforcommunityjustice.org/	Community Mediation
Indiana	Community Justice & Mediation Center	https://cjamcenter.org/	Community Mediation
Indiana	Reach for Youth	https://www.reachforyouth.org/	Teen Court
Iowa	Iowa Center for Children's Justice	https://iowachildrensjustice.org/	Community Mediation

State	Organization Name	Organization Website	Programs
Kansas	Kansas Institute for Peace and Conflict Resolution	https://kipcor.org/	Community Mediation
Kansas	Offender Victim Ministries (OVM)	https://www.offendervictimministries.org/	Community Mediation, Restorative Conferencing
Kentucky	Mediation Center of Kentucky, Inc.	http://www.mediationcenterofkentucky.com/	Community Mediation
Louisiana	Community Mediation Services of New Orleans	https://www.cmsnola.org/	Community Mediation
Maine	Family & Community Mediation	https://mainefcm.org/	Community Mediation
Maine	Restorative Justice Project Maine	http://www.rjpmidcoast.org/	Restorative Conferencing
Maryland	Anne Arundel Conflict Resolution Center	https://www.aacrc.info/	Community Mediation, Restorative Conferencing
Maryland	Cecil County Community Mediation Center	https://www.cecilmediation.org/	Community Mediation
Maryland	Community Mediation Center of Calvert County	https://www.calvert-mediation.org/	Community Mediation
Maryland	Community Mediation of St. Mary's County	https://www.communitymediationsmc.org/	Community Mediation
Maryland	Conflict Resolution Baltimore County Center	https://crcbaltimorecounty.org/	Community Mediation, Restorative Conferencing
Maryland	Conflict Resolution Center of Montgomery County	http://crcmc.org	Community Mediation, Restorative Conferencing
Maryland	Mediation and Conflict Resolution Center of Howard County	https://www.mcrchoward.org/	Community Mediation, Victim-Offender Dialogue
Massachusetts	Brookline Center for Community Mental Health	https://www.brooklinecenter.org/	Community Mediation
Massachusetts	Community Dispute	https://communitydispute.org/	Community Mediation
Massachusetts	Greater Brockton Center for Dispute Resolution	http://www.gbcd.org/	Community Mediation
Massachusetts	Martha's Vineyard Mediation Program	https://www.mvmediation.org/	Community Mediation

State	Organization Name	Organization Website	Programs
Massachusetts	MetroWest Mediation Services	https://metrowestmediationservices.org/	Community Mediation
Massachusetts	North Shore Community Mediation Center	https://nsmediation.org/	Community Mediation
Michigan	Community Resolution Center	https://www.mediation-crc.org/	Community Mediation, Restorative Conferencing
Michigan	Conflict Resolution Services	https://crsmediationtc.org/	Community Mediation
Michigan	E.U.P. Community Dispute Resolution Center	https://www.eupmediate.org/	Community Mediation
Michigan	Mediation & Restorative Services	https://www.mediatewestmichigan.com/	Restorative Conferencing
Michigan	Oakland Mediation Center	http://mediation-omc.org/	Community Mediation
Michigan	The Resolution Center	http://www.theresolutioncenter.com/	Community Mediation, Restorative Conferencing
Michigan	Wayne County Dispute Resolution Center	https://wcdrc.org/	Community Mediation
Minnesota	Community Mediation & Restorative Services	https://cmrsmn.org/	Community Mediation, Restorative Conferencing
Missouri	Center for Conflict Resolution	https://www.ccrkc.org/	Community Mediation, Victim-Offender Dialogue
Missouri	Community Mediation Services of St. Louis	http://mediationstl.org/	Community Mediation
Missouri	Conflict Resolution Center - St. Louis	https://www.stlresolutioncenter.org/	Community Mediation
Missouri	Confluence Missouri	https://confluencemissouri.org/	Community Mediation
Montana	CDRC of Missoula County	https://www.cdrcmissoula.org/	Community Mediation
Nebraska	Central Mediation Center	http://centralmediationcenter.com/	Community Mediation, Restorative Conferencing
Nebraska	Concord Mediation Center	https://concordmediationcenter.com/	Restorative Conferencing, Victim-Offender Dialogue
Nebraska	Mediation West	https://mediationwest.org/	Community Mediation, Restorative Conferencing

State	Organization Name	Organization Website	Programs
Nebraska	Nebraska Mediation Center	http://www.nebraskamediationcenter.com/	Community Mediation
Nebraska	The Mediation Center	http://www.themediationcenter.org/	Community Mediation
Nebraska	The Resolution Center	https://theresolutioncenter.org/	Community Mediation
Nevada	Neighborhood Mediation Center	https://www.mediatenmc.org/	Community Mediation
New Hampshire	Environmental Mediation Center	https://www.emcenter.org/	Community Mediation
New Mexico	Outcomes, Inc.	https://www.outcomesnm.org/	Community Mediation, Victim-Offender Dialogue
New Mexico	Youth Development, Inc	https://www.ydinm.org/	Community Mediation, Teen Court
New York	A CENTER FOR DISPUTE RESOLUTION	https://accordny.com/	Arbitration, Community Mediation, Restorative Conferencing
New York	Bethlehem Youth Court	https://www.bethlehemyouthcourt.org/	Teen Court
New York	Child and Family Services	https://cfsbny.org/	Community Mediation
New York	Common Ground Dispute Resolution	https://www.commongroundinc.org	Arbitration, Community Mediation
New York	Community Dispute Resolution Center	http://www.cdrc.org/	Community Mediation
New York	Community Mediation Services	https://mediatenyc.org/	Community Mediation
New York	CONGREGATIONS LINKED IN URBAN STRATEGY TO EFFECT RENEWAL	https://clusterinc.org/	Community Mediation
New York	Dispute Resolution Center	https://www.drcservices.org/	Arbitration, Community Mediation
New York	EAC Network	https://eac-network.org/	Community Mediation
New York	Empowered Pathways	https://www.empoweredpathwayscny.org/	Community Mediation, Restorative Conferencing
New York	Institute for Mediation and Conflict Resolution	https://www.imcr.org/	Community Mediation
New York	Mediation Center of Dutchess County	https://www.dutchessmediation.org/	Community Mediation
New York	Mediation Matters	https://www.mediationmatters.org/	Community Mediation

State	Organization Name	Organization Website	Programs
New York	New Justice Conflict Resolution Services	https://www.newjusticeservices.org/	Community Mediation
New York	New York Peace Institute	https://nypeace.org/	Community Mediation, Restorative Conferencing
New York	Resolution Center of Jefferson and Lewis Counties	https://www.resolution-center.net/	Arbitration, Community Mediation, Teen Court
New York	Rockaway Community Justice Center	https://rockawaycjc.org/	Community Mediation
New York	Rural Law Center	https://rurallawcenter.org/	Community Mediation
New York	The Center for Dispute Settlement	https://cdsadr.org/	Arbitration, Community Mediation
New York	The Center for Youth	https://www.centerforyouth.net/	Teen Court
North Carolina	Carolina Dispute Settlement Services	https://www.notrials.com	Arbitration, Community Mediation
North Carolina	Conflict Resolution Center of Cabarrus County	https://www.nomoreconflict.org/	Community Mediation, Teen Court
North Carolina	Dispute Settlement Center	http://www.disputesettlement.org/	Community Mediation, Restorative Conferencing
North Carolina	Elna B Spaulding Conflict Resolution Center	https://www.crc-mediation.org/	Community Mediation
North Carolina	Mediation and Restorative Justice Center, inc.	http://www.mrjc.us/	Community Mediation
North Carolina	Mediation Center of Southern Piedmont	www.mediationcsp.com	Community Mediation
North Carolina	Mountain Mediation Services	www.mountainmediation.org	Community Mediation, Teen Court
North Carolina	One Step Further, Inc.; Mediation Services of Guilford County	http://www.onestepfurther.com	Teen Court
North Carolina	Redirections of Rockingham County	www.redirections.org	Community Mediation
North Carolina	Religious Coalition for a Nonviolent Durham, Inc.	https://nonviolentdurham.org/	Restorative Conferencing
North Carolina	The Conflict Resolution Center, Inc.	http://www.theconflictresolutioncenter.org	Community Mediation, Teen Court
North Carolina	The Cumberland County Dispute Resolution Center, Inc.	https://www.ccdrcnc.org/	Community Mediation, Teen Court

State	Organization Name	Organization Website	Programs
North Carolina	The Mediation Center of Eastern North Carolina	https://mceconline.org/	Community Mediation, Teen Court
North Carolina	The Mediation Center of Western North Carolina	https://mediatewnc.org/	Community Mediation
North Carolina	Vantage Pointe, Inc.	www.vantagepointenc.org	Community Mediation, Teen Court
Ohio	Community Mediation Services of Central Ohio	https://communitymediation.com/index.html	Community Mediation
Oregon	Center for Dialogue and Resolution	https://lanecdr.org/	Community Mediation
Oregon	Common Ground Mediation	https://www.commongroundmediation.org/	Community Mediation
Oregon	Community Solutions of Central Oregon	http://www.solutionsco.org/	Community Mediation
Oregon	Lincoln Community Dispute Resolution	https://lincolncdr.wordpress.com/	Community Mediation
Oregon	Resolutions Northwest	https://resolutionsnorthwest.org/	Community Mediation
Oregon, Washington	Six Rivers DRC	http://www.6rivers.org/	Community Mediation
Pennsylvania	Advoz	https://advoz.org/	Community Mediation, Victim-Offender Dialogue
Pennsylvania	Center for Alternatives in Community Justice	https://www.cacj.us/	Community Mediation, Restorative Conferencing
Pennsylvania	Center for Resolutions	https://www.center4resolutions.org/	Community Mediation
Pennsylvania	Center for Victims	https://www.centerforvictims.org/	Victim-Offender Dialogue
Pennsylvania	Mediation Services of Adams County	https://mediateadams.org/	Community Mediation
Pennsylvania	Neighborhood Dispute Settlement	http://www.disputesettlement.us/	Community Mediation
Pennsylvania	Susquehanna Valley Mediation	https://www.svmediation.org/	Community Mediation
Pennsylvania	The Peace Center	https://www.thepeacecenter.org/	Community Mediation
Rhode Island	Center for Mediation and Collaboration Rhode Island	http://www.cmcri.org/	Community Mediation
Rhode Island	Youth Restoration Project	https://yrpofri.org/	Restorative Conferencing

State	Organization Name	Organization Website	Programs
South Carolina	Midlands Mediation Center	https://midlandsmediation.org/	Community Mediation
South Carolina	Upstate Mediation Center	https://upstatedmediation.com/	Community Mediation
Tennessee	Community Mediation Center	https://2mediate.org/	Community Mediation
Tennessee	Community Mediation Services	http://www.cms-tn.org/	Community Mediation
Tennessee	Nashville Conflict Resolution Center	https://nashvilleconflict.org/	Community Mediation
Tennessee	Raphah Institute	https://raphah.org/	Restorative Conferencing
Tennessee	Tennessee Youth Courts	http://tnyouthcourts.org/	Teen Court
Tennessee	The Mediation Center	https://www.columbiamediation.org/	Community Mediation
Texas	Central Texas Dispute Resolution Center	http://www.centexdrc.org/	Community Mediation
Texas	Denton County Alternative Dispute Resolution Program	http://www.centexdrc.org/	Community Mediation
Texas	Dispute Resolution Center	http://www.dentonadr.com/	Community Mediation
Texas	Dispute Resolution Center of Montgomery County	https://resolution-center.org/	Community Mediation
Texas	Dispute Resolution Center- Central Brazos Valley	https://brazosdrc.org/	Arbitration, Community Mediation
Texas	Fort Bend County Dispute Resolution Center	http://www.fortbenddrc.org/	Community Mediation
Texas	Hill Country Dispute Resolution Center	http://hillcountrydrc.org/wp/	Community Mediation
Texas	McLennan County Dispute Resolution Center	https://www.drcwaco.com/	Community Mediation
Utah	Mountain Mediation Center	https://mountainmediation.center/index.html	Community Mediation
Utah	Utah Dispute Resolution	https://www.utahdisputeresolution.org/	Community Mediation
Vermont	Center for Restorative Justice	https://www.greaterfallscjc.org/	Restorative Conferencing
Vermont	Environmental Mediation Center	https://www.emcenter.org/	Community Mediation
Vermont	Hartford Community Restorative Justice Center	https://hartfordjusticecenter.org/	Community Mediation, Restorative Conferencing

State	Organization Name	Organization Website	Programs
Vermont	The Community Restorative Justice Center	https://communityrjc.org/	Community Mediation
Virginia	Better Agreements	https://www.betteragreements.org/	Community Mediation
Virginia	Conflict to Peace	https://www.conflicttopeace.org/	Community Mediation
Virginia	Mediation Center of Charlottesville	https://www.mediationville.org/	Community Mediation
Virginia	NVMS Conflict Resolution Center	https://nvms.us/	Community Mediation
Virginia	Piedmont Dispute Resolution Center	https://piedmontdisputeresolution.org/	Community Mediation, Restorative Conferencing, Teen Court
Virginia	Virginia Center for Restorative Justice	http://www.vcrj.org/	Restorative Conferencing
Washington	Columbia Basin DRC	http://www.cbdr.org/	Community Mediation
Washington	Community Mediation Services	https://www.mediationclarkcounty.org/	Community Mediation
Washington	Dispute Resolution Center of King County	https://kcdrc.org/	Community Mediation, Victim-Offender Dialogue
Washington	Dispute Resolution Center of Kitsap County	https://www.kitsapdrc.org/	Community Mediation
Washington	Dispute Resolution Center of Okanogan County	https://www.okanogandrc.org/	Community Mediation
Washington	Dispute Resolution Center of Thurston County	https://www.mediatethurston.org/	Community Mediation, Victim-Offender Dialogue
Washington	Dispute Resolution Center of Yakima and Kittitas Counties	https://drcyakima.org/	Community Mediation
Washington	Fulcrum Institute	https://www.fulcrumdispute.com/	Community Mediation
Washington	Lewis County Center for Constructive Resolution and Conversation	http://lewiscountycrc.org/	Community Mediation
Washington	Northwest Mediation Center	https://www.nwmediationcenter.com/	Community Mediation
Washington	Peninsula Dispute Resolution Center	https://pdrc.org/	Community Mediation
Washington	Wenatchee Valley Dispute Resolution Center	https://www.wvdrc.org/	Community Mediation

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State	Organization Name	Organization Website	Programs
Washington	Whatcom Dispute Resolution Center	https://www.whatcomdrc.org/	Community Mediation
Wisconsin	Goodwill Industries of North Central Wisconsin	https://www.goodwillncw.org/	Restorative Conferencing
Wisconsin	Mediate Wisconsin	https://www.mediatewisconsin.org/	Community Mediation
Wisconsin	St. Croix Valley Restorative Justice Program	http://www.scvrjp.org/	Restorative Conferencing
Wisconsin	The Winnebago Conflict Resolution Center, Inc.	http://www.mediationwrc.org/	Community Mediation
Wyoming	Natrona County Restorative Justice	https://natronacountyj.wixsite.com/ncrj	Restorative Conferencing
Wyoming	Teton County Access to Justice Center	http://tetonjustice.org/	Community Mediation

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