

# Commentary: The Case for the Field of Community Mediation

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Timothy Hedeem's overview of the history of mediation, the underlying characteristics of the model, and the major research findings is comprehensive and insightful and clearly identifies areas where research is needed. In this commentary, I discuss five components of a strategy to strengthen community mediation: data collection, research, and distribution; training and leadership development; funding and development of national, state, and community-based organizations; policy research, analysis, and development; and public relations, public education, and marketing. I will also describe how funding for those elements will make a difference and outline some policy concerns of the field.

## Strategy for Action

There are several components to be addressed in articulating the strategy for action.

### *Data Collection, Research, and Distribution*

Hedeem has identified the need for additional research regarding the effectiveness of community mediation at the individual, organizational, and societal levels of analysis. The ability to do this research would be enhanced if there were a mechanism for collecting case data on a consistent basis, similar to the mechanisms that exist for collection of court data and crime statistics. Many community mediation centers purchased case management data through a subsidy made available through the National Association for Community Mediation (NAFCM) from a Hewlett grant. The project designers hoped that the software would not only help centers manage cases more efficiently, but would also make it possible for large quantities of case data to be pooled and analyzed. By using compatible

software and collecting common data, information about referral sources, relationships of parties, nature of disputes, and disposition of cases could be collected at multiple centers. The project has not fulfilled all the expectations of its designers, largely because many centers do not have staff resources to use the program and enter data consistently, but NAFCM has used the pooled data to generate some descriptive statistics and cross-tabulations about the caseloads in the participating centers and with additional resources could provide assistance to the centers so that more case data could be collected and analyzed.

Centers are frequently required to support their requests for funding with proof of the effectiveness of their programs. They are seeking “sound bites” that will help convince funders and referral sources that mediation works. In the same way that we have come to believe that “seat belts save lives” and “milk builds strong bones,” community mediation centers would like to be able to say that “mediation works.” In an effort to make the results of research more accessible to centers for these purposes, NAFCM, with grant money from Hewlett, reviewed the research literature in the conflict resolution field and prepared abstracts in language accessible to program administrators and funders. The abstracts will be disseminated to centers and can be used to inform funders, local governments, courts, and social service agencies about the benefits of mediation. Additional resources will be needed to create an ongoing program to identify, abstract, and disseminate research relevant to community mediation. In addition, individual centers, statewide networks, and national associations need to develop ongoing partnerships with researchers so that the work that the centers are doing can be evaluated and the benefits disseminated.

### *Training and Leadership Development*

The case for community mediation can also be enhanced by strengthening training and leadership development in the field to ensure the quality of the services provided by centers. Staff of existing centers can benefit from training programs that cover a variety of topics, including center administration, program development, fund development, case management, program evaluation, public education, and government relations. Training on general nonprofit management topics as well as issues specific to community mediation also needs to be available for individuals creating new centers. (While the community mediation field needs to identify areas currently underserved by community mediation centers and explore strategies to stimulate development of new centers, if funding for existing centers is

insecure, it may not be advisable to encourage development of new centers but instead to focus on finding ways to support existing centers.)

Conferences have traditionally been used as training opportunities, but there is no conference specifically designed to address the needs of community mediation centers other than the regional training institutes that NAFCM convenes twice each year. Community mediation centers have traditionally participated in the National Conference on Peacemaking and Conflict Resolution, and this organization is currently exploring the idea of convening a conference with several other organizations in the field, including PeaceWeb, the Victim-Offender Mediation Association, the National Coalition on Dialogue and Deliberation, and the Practitioner's Research and Scholars Institute.

Many community mediation centers provide training not just for the volunteers who mediate for the center, but also for the wider community. Some training programs focus on teaching third-party skills such as mediation, community conferencing, and facilitation. Other programs teach more general skills such as conflict management and systems design. These training programs help to infuse conflict management and conflict resolution skills in the wider community, but also generate much-needed program revenue for the centers. In some centers, however, the emphasis on training has detracted from the primary mission of providing dispute resolution services. In addition, when training programs are primarily intended to raise revenue and offered only to those able to pay for training, the center's mission of serving the all segments of the community may be compromised. Research into the effectiveness of a variety of types of training programs will help the community mediation field decide how to focus limited training resources.

#### *Funding and Development of National, State, and Community-Based Organizations*

Funding is needed to support development of local centers and the state and national entities that link and support them. Local centers need funding for innovative, sustainable, and replicable projects. Funding is also needed for peer-to-peer technical assistance to support the exchange of technical expertise among centers and for evaluation of these projects. State coordinating entities play an important role in supporting centers by fostering exchange of information and serving as a voice for community mediation in policymaking at the state level. They can also serve as central points for distribution of information and technical assistance among

centers and for collection of data from centers. Ideally, these coordinating entities would not be tied to state administrative offices or to the entity that distributes funding, but should be free-standing associations of community mediation centers. Funding is also needed to create new networks in states without such networks. In addition, financial support is needed for national membership-based organizations such as the National Association for Community Mediation and the Victim Offender Mediation Association so that those organizations can continue to provide technical assistance, facilitate networking and information exchange, and represent the interests of community mediation in professional organizations in the field and in national legislative and regulatory processes.

For community mediation in particular, community foundations may be a natural source of support. Community mediation centers not only need to inform community foundations about their work, but can also make the case for how they can support community foundations in the foundation's work in convening community members around significant communitywide issues. In that way, the partnership is not solely one of funder to fundee, but a mutually beneficial partnership in which community mediation centers can provide services that help enhance the work of community foundations. The community mediation field also needs to develop partnerships with other foundations, particularly those supporting civic engagement and deliberative democracy initiatives.

Community mediation needs to enlist the support of other allies, including many current leaders in the dispute resolution field—practitioners, academics, administrators, and program administrators—who were introduced to mediation through community mediation centers and received their first training and experience there. Many of these individuals may now be able to contribute to the community mediation field in a variety of ways, including financial contributions and contributions of their time and expertise in areas such as research or strategic planning, or may be able to use their current connections and affiliations to help community mediation centers develop strategic relationships with other national and community-based institutions. The corporate donor community, including alternative dispute resolution providers in the private sector, also needs to be approached for support.

More than a dozen states currently have a role in providing funding and support for community mediation centers. Funding is generally provided from filing fees and court surcharges and through legislative appropriations. NAFCM has researched these mechanisms and will be publishing a report describing them in detail and offering a number of

recommendations. Among the report's recommendations is the suggestion that states fund mediation centers through multiple funding mechanisms and encourage both basic and innovative processes. States are encouraged to reward a number of factors, including quality performance measures, outreach, diversity of referral sources and populations served, and service to underserved populations and areas. They are also urged to create legislation that will foster stability of centers and establish state offices to work with centers to coordinate advocacy and technical assistance.

### *Policy Research, Analysis, and Development*

The issue of quality assurance, credentialing, and certification for mediators has received considerable attention for many years. As conflict resolution organizations grapple to set standards for the field, it is critical that community mediation be represented at the table and participate in the development of national and local policies. Areas where collaboration would be beneficial include national-level deliberations about model standards, mediator certification and trainer credentialing, and state-level policies regarding funding for mediation and other legislation and regulations that will have an impact on the work of community mediation centers.

NAFCM supports a broad approach to quality assurance that advocates self-determination by centers, recognizes the uniqueness of community mediation, and facilitates the continued high quality of service provided by community mediation centers. Centers can participate in NAFCM's quality assurance initiative by implementing a quality improvement program using NAFCM's *Quality Assurance Self-Assessment Manual* (Broderick and Carroll, 2002). The manual provides a checklist of factors covering all aspects of management and operations for centers to consider. The approach is intended to be aspirational, not prescriptive. Twelve centers are currently participating in a pilot project to test this approach. Each of the centers in the pilot writes its own quality improvement plan and is partnered with another center. During the six months of the pilot, each pair meets monthly by conference call with an NAFCM board member and staff to share ideas and discuss progress on their individual plans.

### *Public Relations, Public Education, and Marketing*

If community mediation is going to thrive, communications strategies need to be devised to raise awareness about these services. In designing these strategies, it will be important to understand how community mediation is

perceived by the general public, consumers, referring agencies, funders, and policymakers. The audiences for the messages need to be identified and messages need to be tailored for each audience. Then the message needs to be delivered. Materials for electronic and print media need to be developed. New strategic alliances must be formed with local, state, and national nonprofits and government that are concerned with the needs of youth, families, and communities. Internal allies for community mediation need to be identified in federal agencies for the purpose of securing grants and contracts. Such agencies might include the Departments of Justice, Health and Human Services, Housing and Urban Development, and Agriculture. Partnerships also need to be developed with national organizations with local affiliates that could or do refer cases to community mediation centers. Examples include professional organizations such as the American Planning Association and the International City Managers' Association; public interest groups such as the League of Cities and the National Civic League; groups that represent law enforcement, schools, and human relations commissions; organizations that promote bias awareness, diversity, and inclusion; and groups promoting dialogue and civic engagement. Discussions with these national entities can help community mediation centers develop strategies for using national organizations to promote their work. The top-down approach needs to be balanced by a bottom-up approach in which local centers position themselves as the resolution experts when community conflicts arise. Centers need to continuously seek to understand their own communities and identify ways that they can serve their neighbors.

### How Funding Could Make a Difference

The community mediation model, with its reliance on trained volunteers, might seem an inexpensive proposition. But functioning centers need staff to provide training, manage cases, supervise volunteers, negotiate contracts, raise funds, and do all the other things that nonprofit agencies do. Centers also need offices, furniture, utilities, computers, telephones, supplies, and all the other items that for-profit businesses and nonprofit providers require. In addition, the commitment to providing services to clients regardless of their ability to pay means that centers cannot expect to receive significant revenue from clients. In some ways, this business model seems to doom centers to a short, but idealistic, life span. Centers have managed to survive, but for most centers, seeking funding consumes a significant

portion of the energies of center staff and volunteers, and funding is always somewhat precarious.

One of the consequences of shaky funding is that centers have challenges employing and keeping qualified staff. Too frequently experienced employees leave for other opportunities when centers are not able to compensate them appropriately or when funding reductions require staff cuts. If centers received sufficient resources, they would not only be able to hire and retain staff, but could also relieve staff of the ongoing burden of fundraising. In a survey of centers conducted in 2003, twenty-one of the twenty-two centers that responded stated that funding, financial stability, and sustainability were a challenge for the field over the next three to five years. When asked what the most critical challenge was for centers, eighteen identified financial stability and funding; and when asked what NAFCM programs were most beneficial, the most common response, coming from fourteen centers, was that the most beneficial programs were the minigrants that member centers are eligible to apply for.

In most centers, the majority of the caseloads consists of interpersonal disputes: minor commercial and criminal cases—referred by courts. These cases typically require moderate amounts of case management, and relatively little time is spent with clients prior to mediation. With more funding, centers would also be able to provide mediation, facilitation, and other problem-solving services in larger and more complex cases. More complex cases often require time-consuming case management, including more time identifying and interviewing parties and preparing them to participate in the mediation process. Community mediation centers that are well known and trusted in their communities can be effective interveners in these kinds of cases, but they are often reluctant to do so because they lack the resources to manage the cases properly.

Community mediation centers would have no problem listing additional ways that they could serve their communities if they had more funding. There are unlimited training needs in schools, workplaces, and other areas of community life, and additional funding would enable centers to conduct training without having training compete with providing dispute resolution services. Additional funding would also enable centers to conduct more outreach to all parts of their communities, take risks and experiment with new and innovative programs and practice models, research community needs, and conduct evaluations to measure the effectiveness of their work.

National and state organizations provide technical assistance and networking, and they serve as a voice for the community mediation field in

policy deliberations. They are an important part of the infrastructure of the community mediation field, yet they face funding challenges that are similar to the challenges of the centers. Many are membership-based associations and rely on members as the base of their financial support. But, community mediation centers themselves have limited resources and are therefore limited in their ability to pay dues or participate and pay for revenue-generating activities provided by state and national networks, such as conferences and training. Like centers, they have difficulty hiring and retaining qualified staff and are burdened by the ongoing need to raise funds not only for special projects but for operating expenses as well. This challenge can subject them to what in the nonprofit sector is referred to as “mission drift,” that is, the tendency to cast such a broad net in seeking funds that they stray from their initial and primary purpose: serving their members. State and national associations also need to avoid competing with their own members, but that restricts their revenue-generating activities. NAFCM, for example, has a policy of not applying for grants if its members are applying for the same grant and not offering services that its members provide. For this reason, NAFCM does not provide mediation training, since most of the centers provide such training. NAFCM does, however, offer training in the management and administration of mediation centers, since that training is not offered by members. Some state associations serve as brokers for cases from public agencies by contracting with state agencies and then referring those cases to centers.

With additional resources, state and national networks could engage in more of the kinds of activities that serve their members and are best done on a national or statewide basis. Public education, research, and policy analysis are all activities that can best be done by state and national networks working with and on behalf of their members. Community mediation remains little known and underused in large part because the public, including potential users and referral agencies, is unaware of its existence. In many ways, community mediators share this dilemma with other private mediation practitioners. Mediation centers cannot rely on word-of-mouth recommendations. Because of the confidentiality of the process, some parties believe they cannot even tell others that they participated in mediation. And because parties in mediation discuss difficult issues that they would often prefer not to disclose to others and because parties tend to be one-time consumers, even satisfied customers tend not to refer others to mediation. With additional resources, state and national networks could conduct coordinated efforts to raise awareness about the services of their members.



A great deal of work needs to be done to demonstrate empirically the effectiveness of community mediation. Research will require funding, and any large-scale research efforts will probably benefit from some coordination involving associations of centers. While centers and associations are generally enthusiastic about participating in research, they also need to be compensated for the time they devote to those activities.

Policy development for community mediation can also best be initiated by national and state associations working closely with local affiliates. Promoting and tracking of legislation and regulations can also be most efficiently and effectively conducted by networks rather than by individual centers, but associations will need funding to support these activities.

### Policy Implications for the Current and Future State of Community Mediation

As the mediation field has moved in the direction of becoming a profession, community mediation centers have also moved toward a service model. Many question whether the creativity, autonomy, and adaptability that were the hallmark of community mediation will remain as centers struggle to survive as community institutions.

Reliance on trained volunteers has become a challenge as the nature of volunteerism has changed and as the broader field of mediation has evolved. While in some centers the capacity of the volunteer pool exceeds the caseload, many centers are not able to attract the volunteers they need most: volunteers who are available during the daytime and volunteers who speak languages other than English. Centers in rural areas find it difficult to find volunteers willing to travel long distances to mediate. And some centers in urban areas with markets for private mediators complain that they are training their own competition. And while centers aspire to reflect the diversity of the communities they serve, the mediators in most centers are rarely of the same class or culture of the majority of clients.

Community mediators do not advocate for one side or another in a conflict (rather, they are impartial third-party interveners), but most funders are interested in funding organizations that advocates for a particular cause or issue. Community mediation centers can argue that they are advocates for a process and that they prevent prolonged litigation, escalation of conflicts, and even violence by helping parties resolve conflicts peacefully, but it is difficult to prove the impact of such processes. NAFCM has been advised by a development consultant to consider focusing on an issue-oriented

approach rather than a process-oriented approach to describe the impact that community mediation has on communities.

Some centers are now shifting their focus from interpersonal disputes to communitywide disputes. One center has even changed its name to the Center for Dialogue. Centers are training mediators to serve as facilitators of processes designed to address communitywide conflicts and are participating in civic engagement and deliberative democracy processes. Does this indicate a shift away from reliance on referral agencies back to a community service model, or does it suggest that community mediation centers are moving away from serving their communities and becoming consultants? Or is it simply another example of how wonderfully adaptive and creative community mediation can be?

The field of community mediation has accomplished a great deal and still faces significant challenges. A comprehensive strategy incorporating all the elements of the strategy described above, and the funding to implement the strategy, will enable the field of community mediation to grow and to fulfill the high ambition stated in NAFCM's preamble: "Community Mediation is designed to preserve individual interests while strengthening relationships and building connections between people and groups, and to create processes that make communities work for all of us."

## Reference

Broderick, M., and Carroll, B. (eds.). *Community Mediation Center Self-Assessment Manual*. Washington, D.C.: National Association for Community Mediation, 2002.

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