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**AN ANALYSIS OF STRUCTURE, ORGANIZATION, AND ACTIVITIES
OF COMMUNITY DISPUTE RESOLUTION CENTERS IN VIRGINIA**

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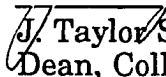
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ABSTRACT

AN ANALYSIS OF THE STRUCTURE, ORGANIZATION, AND
ACTIVITIES IN COMMUNITY DISPUTE RESOLUTION
CENTERS IN VIRGINIA.

Terri Colby Barr
Old Dominion University, 1996
Director: Dr. Wolfgang Pindur

This study is a comparative analysis of the structure, organization and activities of the nine non-profit (501 (c)(3)) mediation centers for the resolution of dispute (CDRC) in Virginia. Data for the analysis was collected through on-site interviews, in-depth case studies, and discussions with the leadership of the centers.

The CDRCs suffer from funding shortfalls which pressure them to shift their attention away from their mission. They are dependent upon the state's court contracts for mediation services in order to financially supplement their *pro bono* mediations and to generate operating capital. The large-budget CDRCs provide a considerable number of *pro bono* mediations and have been forced to turn their time and attention to providing training to generate adequate operating income. Small budget CDRCs are in jeopardy due to their relatively high overhead and limited opportunities to supplement their income with paying mediations or training.

The CDRCs are faced with both short- and long-range planning decisions which will determine their ability to carry out their mission and survival. Without a dramatic shift away from the social welfare mentality and societal transformation orientation to a strategy of marketing services that are income generating, the future of the CDRCs in Virginia is questionable. Recommendations relating to training, mediator qualifications, standards of certification are made.

To Wolfgang Pindur

He promised me he would guide me to the light at the end of the tunnel.

He kept his promise.

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Special acknowledgment is directed to those who provided guidance and support throughout this process. My dissertation committee, Dr. Wolfgang Pindur, Dr. Berhanu Mengistu, and Ms. Barbara Hulburt, provided insight and suggestions. Ms. Hulburt's expertise contributed to the direction of the dissertation. Dr. Mengistu helped to focus the topic and to clarify the issues as well as the readability of the dissertation. His support and friendship were integral to the process. Dr. Pindur, the chairman of my dissertation committee, provided limitless assistance, encouragement, and invaluable dedication to my completion of this dissertation. He kept his promise.

I wish to acknowledge the leadership and mediators at each of the community dispute resolution centers in Virginia for their time and participation. Ms. Laurie Grohowski was especially helpful in assisting me to appreciate the community mission of the centers.

Appreciation is extended to Ms. Linda Peck for her assistance in the final editing phase.

Without Hashem and Shabbat my work would not be done.

Recognition is also extended to my parents and grandparents for their belief in my ability, my work ethic, and my gene pool. Each one of them made a unique contribution.

To my children for their relentless daily support of me and my work, I express my regard.

My most profound indebtedness is to my husband, who did everything within his power to help me realize any dream I could dream; and who never failed to overlook my every shortcoming.

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CHAPTER 1

THE RESEARCH PROBLEM

Statement of the Problem

Mediation, arguably one of the oldest means of conflict resolution, has been used for thousands of years, in one form or another, all over the world (Wall and Lynn, 1993). In contemporary times in the United States mediation was proffered as a form of dispute resolution and as a viable alternative to the adjudication system. Its popularity and use burgeoned.

Mediation was revived as a method of resolving conflicts approximately three decades ago as a way to achieve the lofty goals of justice, disputant satisfaction, and improving the community. However, today its advocacy and proliferation are typically attributed to the more practical economic goals of reducing the overloaded court dockets and lowering the high financial costs of dispute resolution (ABA Overall Assessment: The Dispute Resolution Field).

This study presents a comparative analysis of the structure, organization, and activities of the nine¹ community dispute resolution centers (henceforth referred to as CDRCs) in the Commonwealth of Virginia (henceforth referred to as the Commonwealth).² The CDRCs in the

The Publication Manual of the American Psychological Association was used as the manuscript model for this dissertation.

¹ The office of the Executive Secretary, Supreme Court of Virginia lists a tenth CDRC. Extensive efforts were made by phone and registered mail to contact this CDRC to no avail. All tertiary information confirmed that the Lynchburg CDRC was effectively defunct at the time of the research. Staunton is planning to terminate operations in 1996 due to a lack of funds.

² There are those who would make the arguably fine distinction between dispute settlement and dispute resolution (Light, 1984; Burton, 1989; Mitchell, 1990). Settlements are agreements that are imposed or arranged, usually by "successful coercion." The durability and stability of such agreements are tenuous. Resolutions, on the other hand, are by their

Commonwealth were chosen as the unit of study because of their overall similarity of purpose and their wide diversity in the areas of setting, population served, types of cases handled, funding, structure, size, and longevity. All of the CDRCs in the Commonwealth belong to a coalition of CDRCs in Virginia (the Coalition of Community Mediation Centers). This coalition functions as a clearinghouse and forum for their issues.

Justification of the Study

Merry and Milner point out that despite the sizable body of data available about community mediation, most of the research work focuses on “customer” satisfaction, quality of justice, and improvements over adjudication (1993). Little is known about the actual workings, practices, demographics, staffing qualifications and responsibilities, case loads, and funding of the CDRCs. Roman Tomasic, a critical evaluator of the mediation process, noted a dearth of adequate evaluation of community-based mediation programs (1982). The empirical analysis aspect of the study of the topic lags far behind the conceptual understanding (Druckman, 1993; Fisher, 1983). Biogoness and Kesner (1986) described the mediation research as “embryonic,” fragmented, and often unsystematic. Research needs to be done to enlighten the field.

The idea of and support for ADR [Alternate Dispute Resolution] generally, and mediation specifically, is being reiterated in board rooms, classrooms and in the media. Stomato “detected a seemingly inexorable movement at work.” (1991, 266) Not only is the trend apparent but it also satisfies the movement’s constituents. Linda Singer in her book Settling Disputes (1990) contends that given the option of an alternate forum for the

nature, terminated conflict situations. The likelihood of a conflict coming to resolution is rare. Nonetheless, the literature continues to refer to conflict interchangeably as resolved or settled. In order for a conflict to be truly resolved, the agreement must be durable, acceptable, and permanent (Mitchell, 1990). For the purposes of this dissertation the terms will be used interchangeably.

resolution of their dispute, parties would choose mediation again based upon a prior experience with the process. Singer claims satisfaction rates of 60-80% for those using mediation.

The use of mediation in community mediation centers and other settings is at the brink of an explosion of use. Not only in Virginia, but all across the United States, mediators are practicing and being trained in mediation processes in an ever-expanding number of venues (Wall and Blum, 1991, ABA Overall Assessment: The Dispute Resolution Field). In both the public and private arenas, mediation is becoming a preferred method of dispute resolution when compared to traditional means. In addition, millions of dollars are being dedicated to mediation programs and research. These investments of energy, commitment and resources are positive and undeniable.

The idea of ADR is not a new trend but one which is gaining momentum. The field of conflict resolution is ripe with promise. In practically every sector of society, men and women of vision have begun to embrace the ideas and methods of collaborative problem-solving, conflict management, and dispute resolution...(Toben, 1996, p. 1)

With high satisfaction rates, lower costs, faster potential for intervention, and accompanying feelings of empowerment, "private dispute resolution mechanisms are destined to replace the courts as the primary vehicle for regulating civil disputes in this country" (Toben, 1996, p. 1). However, mediation is not a panacea. The process has its detractors (Galanter, 1988; Posner, 1986; Abel, 1985, Tomasic, 1982) as well as its unabashed advocates (Merry and Milner, 1993; Moore, 1986; Rubin, Pruitt, and Kim, 1994; Wahrhaftig, 1981 and 1982). The extensive debate about ADR is evidence of the importance of this investigation of community dispute resolution centers. Before proceeding with this discussion, however, there must be a basic common understanding about the subject at hand: dispute resolution.

Ury, Brett and Goldberg (1989) propose that there are three major methods of dispute resolution: reconciliation of disputant interests (typically resolved in a mediation/negotiation type setting); determination of who is right (commonly resolved in the courts); and determination of who controls the most power (usually resolved by war or strikes). The most costly and least rewarding of these alternatives is the power method, followed by the rights determination; the most rewarding and least expensive of the choices is the determination of interests.

The citizenry of the United States is loyal to its constitutional rights. Amongst those rights is the due process of the law. There is a reluctance by citizens to relinquish the access to adjudication as well as a temptation to be drawn to its jackpot-like rewards. However, there is every reason for Americans to support the idea of ADR. Americans know that they are dissatisfied about the way the traditional system functions; they want a financial bottom line that favors their pocketbook (Rauch, 1992); and they would like to feel good when the whole conflict is settled. To satisfy all of these criteria, they need to look for a change in the way they resolve conflicts.

One of the goals of this dissertation is to explore the mediation processes of the CDRCs. The CDRCs in the Commonwealth believe that they practice all the same form of mediation. But there is a loose association amongst the CDRCs, and it had not yet been determined if they all practice mediation in the same fashion.

Specifically, the motivation behind this particular avenue of investigation is that there are nine active, separate CDRCs in the Commonwealth. They are distinct, demographically and administratively, from one another. Some of the distinctions could arguably be described as substantive, others as minor details. For example, the CDRCs exist in a variety of settings including rural, urban, and university. They are headed by lay individuals, professional mediators, and business managers. The services the CDRCs offer vary from exclusively family mediation to an

extensive array of mediation, arbitration, and training.³ The CDRCs are funded through grants, mediation services rendered, memberships, trainings, city/state appropriations, court contracts, etc. Some of the CDRCs have workforces numbering over 100; others rely upon a small, but dedicated, cadre. The budgets of the CDRCs also reflect great diversity. Some of the CDRCs choose to pay an honorarium to a select few of their mediators. The information is displayed in the summary charts in Chapter IV (agency charts and full agency interviews the Appendices 1 and 2).

The CDRCs have a common identification (the Coalition); they lobby as a unit; and they meet and discuss common problems. The CDRCs purport to follow the same principles and processes (Bush and Joseph, 1994; Folger and Bush, 1994; Riskin, 1984; Davis, 1989; and Menkel-Meadow, 1991). The question is this: although the CDRCs may believe they are functionally similar in most significant ways, are they actually similar in what they refer to, or practice, as mediation, the most significant of their functions?

Although most mediators in the United States use the word mediation indiscriminately, it is apparent that there are different orientations and commensurate methods of mediation. Deborah Kolb noted that amongst a collection of practitioners and scholars of mediation with whom she meets regularly, their goal is to develop “a common vocabulary and shared understanding of mediation practice and to differentiate mediation from other modes of third party intervention” (Kolb, 1986). Similarly, Honeyman stated unequivocally that “if your goal is maximum quality [in mediation], you must allow for the ‘transformative’ approach to mediation” (1995, p. 6). This transformative approach is espoused by the Virginia Mediation Network of which the CDRCs are an important component. Patrick Phear, a prominent family mediator, has been outspoken in his disdain for what many call mediation. Even the prestigious Academy of Family Mediators, disseminates training tapes of a

³ The founders’ and practitioners’ training was taken in a variety of different locations across the United States.

directive, problem solving nature. The methods they use often are very directive and more closely resemble a med-arb model without the benefit of knowing what the rules and the guidelines are (Sarat, 1994).

A significant part of the justification for this dissertation is its urban relevance. The next segment of this chapter addresses the topic of relevance specific to the urban environment.

Urban Relevance

An Alternative Method

The courts of this country should not be the place where the resolution of disputes begin. They should be the places where disputes end--after alternative methods of resolving disputes have been considered and tried. The courts of our various jurisdictions should be considered "the courts of last resort." (Supreme Court Justice Sandra Day O'Connor, 1983, p. 2)

Mediation, as part of the aggregate of means of alternate dispute resolution techniques, is an essential concern in the urban environment due to the pressure on the courts as a result of the overload of cases with which they must deal. ADR's actual impact on the courts' dockets is difficult to measure because that which is being measured is what does *not* manifest in litigation. However, "the de-funding of government generally, coupled to the skyrocketing criminal caseload, means that courts in the 21st century will not be able to provide an adequate forum for civil litigants" (Toben, 1996, p. 1, p. 6).

Some of the proponents of ADR generally, and mediation specifically, emphasize the improved quality of justice over adjudication as the primary impetus for the use of these processes and programs (Ray, 1991). Others regard the difference in the opportunity costs of traditional dispute resolution methods versus mediation as the most attractive feature of ADR. With the traditional method each party meets with attorneys separately

and/or together with the other party, and their attorney to develop a case. By its very nature, the traditional dispute resolution method is adversarial, and so the parties are *working at* not cooperating. This further extends the process of dispute resolution. The traditional method is time and labor intensive for the disputants and the advocates (attorneys, etc.). The workforce's commitment of talent, time and resources to resolving or preventing disputes through the adjudicative process cannot be disregarded. It is an important consideration when doing business in the United States today, for it adds a considerable cost.

Financial Costs of Traditional Means

Traditional adjudicative processes take such an enormous financial toll that the pressure to find more effective processes is increasing. The dollars committed to insurance and legally precautionary, prophylactic, measures, such as indemnifying contractual provisions for the sole purpose of protecting an individual, corporation, or non-profit agency from legitimate and spurious complaints, add tremendous strain to the system when examined from the perspective of financial economics, as well as human resources and productivity. The strain is applied to all levels: individual, organizational, and institutional. No arena, from the Catholic Church to the local roller skating rink, has a safe haven from the concerns of potential litigation.

Within the context of the American economy, the country's productivity is being adversely affected and impacted by transfer-seekers, that is, those who seek to appropriate the wealth of others with the legitimate assistance of the law and courts. The cost of this enterprise is estimated to be from \$300-\$700 million dollars annually (Rauch, 1992). As examples of this crisis, Olson offered some of the following statistics in his book The Litigation Explosion (1991): In 1987 the United States had almost three times as many lawyers per capita as did Britain; officials in New York State estimated that medical personal injury lawsuit payouts in their state have increased 300 fold in one generation. As an example of the

impact these lawsuits have on the cost of doing business, in 1990, liability insurance for a neurosurgeon with a good record, practicing in Miami, was \$220,000 (Olson, 1991, pp. 5-6).

Failure of the Legal System

The unleashing of litigation in its full fury has done cruel, grave harm and little lasting good. It has helped sunder some of the most sensitive and profound relationships of human life....It clogs and jams the gears of commerce....It devours hard-won savings and worsens every animosity of a diverse society. It is the special American burden, the one feature hardly anyone admires of a society that is otherwise envied the world around. (Olson, 1991, p. 2)

Roscoe Pound, in 1906, argued that the legal system which was designed "to produce a compromise based on the consensus concerning underlying values" had failed and that legal formalism encouraged the instrumental use of the law (Harrington, 1985, p. 9). "Thus the courts, instituted to administer justice according to law, are made agents or abettors of lawlessness" (Pound, 1906, p. 406). The "lawlessness" has such potential for economic advantage that Americans are using adjudication with shockingly increasing numbers.

There are those who prefer mediation over adjudication merely because it makes good business sense; it is faster, simpler and less expensive than the judicial route (Honeyman, 1995). However, the overload of cases in the judicial system alone provides reason enough to explore mediation. Peter Carlson wrote in *The Washington Post Magazine* that the number of federal lawsuits filed in the past 30 years has nearly tripled. In 1960 there were less than 90,000; in 1990 there were more than 250,000 (Rauch, 1992). "These alternative forms of dispute resolution have been all but mandated as a way to relieve the mounting burden on an overloaded and backlogged judicial system" (Lewicki, et. al, 1986, p. 181).

A Mandate for ADR

The 1990's have seen a dramatic shift from the experimental implementation of ADR to the institutionalization of the processes. A congressional requirement has been executed calling on every federal district court to consider changes including the increased use of the processes of dispute resolution (Goldberg, Sander, and Rogers, 1992). In the most recently published survey of ADR laws, the ABA Section on Dispute Resolution listed more than 100 new laws which were passed during 1990 and 1991 by state legislatures. The focus of these laws was the expansion of the use of ADR (ABA, 1993).

In 1991 more than 100 million cases were filed in the nation's state courts. The burden of an ever-increasing caseload is reducing the accessibility to our system of justice. While the caseload continues to increase, the available resources in most states are either flattening out or even diminishing. The criminal caseload has become so oppressive to the State dockets that some courts were not be able to hear any civil cases in 1992 (Hearing, Committee on the Judiciary, 1992).

Ninety years after Pound's articulate assessment, the problems of formalism have only grown worse. Nonet and Selznick stated, "A formalist, rule-bound institution is ill-equipped to recognize what is really at stake in its conflict with the environment" (1978, p. 77). Central to Pound, and Nonet and Selznick is the contrast of the liberal democratic ideal of legality and legalization. The former deals with justice, liberty, and equality; the latter with the logistics and rules which govern dispute processes.

Dissertation Overview

The dissertation includes a total of five chapters. Chapter I of the dissertation is the statement of the research problem. It includes the urban relevance of the problem and an elucidation of its worthiness as a topic for a dissertation.

Chapter II is a review of the relevant literature on the topic of the theoretical framework, a discussion of the systems theory and organization, mediation as a concept, and definitions.

Chapter III includes the research design and procedures. The design of the study includes a full discussion of the qualitative methodology and its rationale as well as remarks about the systems study. The procedures used for data collection are specifically discussed in this section as well. Chapter III also includes a discussion of the settings of the CDRC and the interview process. The case study approach is also in this chapter.

Chapter IV presents the data analysis gleaned from the in-depth interviews and case studies. In Chapter V the implications of the findings for practice and theory development are discussed.

Definitions

A group of definitions have been included in this chapter to assure that the terms used within the context of this dissertation are commonly understood by the reader and the author.

Organizations are “social entities that are goal-directed, deliberately structured activity systems with a permeable boundary” (Daft, 1995, p. 10).

Systems work to acquire and transform inputs, and discharge outputs to the external environment.

There are five Subsystems of an organization: boundary spanning, production, maintenance, adaptation, and management.

A Production subsystem is charged with the responsibility of producing that which will be the output of the organization. In a manufacturing plant the production department would produce widgets.

A Maintenance subsystem is responsible for both the upkeep and the fluid operation of the organization. All the functions of office management, including personnel, office machinery, and physical accommodations are included.

The Adaptation subsystem is the area dealing with organizational change. This venue gathers information and facilitates the changes which allow the organization to be flexible and to evolve.

The Management subsystem is responsible for coordinating the other parts of the organization. The structure of the organization as well as its mission, goals, strategy and policies all come out of this subsystem. Task direction within each of the other subsystems is also the responsibility of this subsystem.

Mediation is a process that is rapidly increasing in popularity and demand. The reason for this trend is debatable; the trend is nonetheless certain and seemingly inexorable.

Mediation is defined, for the purposes of this paper, as dispute resolution negotiation assisted by a neutral third party. The Code of Virginia (Title 8.01, Chapter 21.1) defines mediation as “the process by which a mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution to the controversy....” The process is intended to be non-adversarial. NIDR defines mediation as

a structured dispute resolution process in which a person with no interest in the outcome of the conflict [a third party neutral] assists the disputants in reaching a negotiated settlement of their differences. The mediation process is generally voluntary and aims at a signed agreement defining the future behavior of the disputants. A mediator helps parties communicate, negotiate, and reach agreements and settlements but is not empowered to render a decision. The process may be mandatory or encouraged by the courts, particularly in divorce and custody matters, civil, and minor criminal cases. (NIDR, 1993, p. 7)

Community Dispute Resolution Centers, according to NIDR (National Institute for Dispute Resolution) are

various kinds of community-based dispute resolution programs—most of which offer mediation services by using trained volunteers.

They deal primarily with disputes between individuals with ongoing relationships (landlord-tenant, employer-employee, domestic, and neighborhood conflicts). The largest centers draw much of their caseload from police referrals or from local courts and prosecutors' offices. (NIDR, 1993, p. 6)

McGillis (1986) and Ray (1991) classify three types of community programs in the United States: community-based, justice-based, and composite. Sponsorship is the basis of both McGillis' and Ray's classification system. In the community-based program, there is usually a small caseload, a grass-roots origin, and a nonprofit agency sponsor. In contrast, the justice-based program carries a large, court-referred load. The cases of the latter are also generally done in a "coercive" style. The composite program is a hybrid of the two previously explained plans. Sponsorship may be from the government, a nonprofit agency, or both. Case origins may be from a variety of sources.

Popular justice "is a process for making decisions and compelling compliance to a set of rules that is relatively informal in ritual and decorum, nonprofessional in language and personnel, local in scope, and limited in jurisdiction" (Merry, 1993, p. 32). In every aspect of the process it utilizes the standards of the local community. According to Merry, most of what is called community mediation in the United States qualifies as popular justice.

Dispute resolution program, according to the Commonwealth of Virginia Code of Virginia (Chapter 20.2, Dispute Resolution Proceedings, Section 8.01-576.4, Definitions), "means a program that offers dispute resolution services to the public which is run by the Commonwealth or any private for-profit or not-for-profit organization, political subdivision, or public corporation, or a combination of these." The CDRCs are dispute resolution programs.

Negotiation is

a bargaining relationship between parties who have a perceived or actual conflict of interest. The participants voluntarily join in a

temporary relationship designed to educate each other about their needs and interests, to exchange specific resources, or to resolve one or more intangible issues. (Moore, 1986, p. 6)

There is an undeniable link between the processes of negotiation and mediation. Mediation extends negotiation into a different format with the added assistance of a neutral facilitator (the mediator) who contributes new dynamics and variables into the disputants' interactions. *Mediation is essentially negotiation* that includes a third party who is knowledgeable in effective negotiation procedures, and can help people in conflict to coordinate their activities and to be more effective in their bargaining (Moore, 1986, p. 14).

It should be noted that the term "settlement" is being used here rather than the term "resolution." An important distinction should be made between these two terms which are generally used casually and interchangeably by those in and out of the field. Settlement rightfully implies that each party makes a compromise of sorts. Although parties may arrive at a win/win arrangement, there is rarely a complete resolution to a conflictual situation. Parties may be trading off, substituting, bartering, etc. but they are making compromises. Dean Pruitt (1988) discusses the different strategies available to disputants and lists compromise as the fifth strategy.

A mediator is defined in the Code as "an impartial third party selected by agreement of the parties to a controversy to assist them in mediation."

The Code also specifically states that "A mediator who desires to receive referrals from the court shall be certified pursuant to guidelines promulgated by the Judicial Council of Virginia" (8.01-576.8).

In order to be certified, a mediator must satisfy certain minimum requirements set by the State Supreme Court in the area of specific, sanctioned coursework, observation of mediated cases, practice co-mediating with a mentoring certified mediator, evaluation, and recommendations of certified mediators. Currently, there are two types of

certification that a mediator may acquire, which are not mutually exclusive: General mediation and Family mediation. Other levels of certification are under consideration by the Commonwealth is Procedurally Complex. Training for certification is prescribed and must be taken at an approved site.

In order to be certified in general mediation there are four steps that must be completed by an applicant:

1. A 20 hour basic skills course on mediation must be completed at a approved site (by the Supreme Court).
2. A four hour training at an approved site in the Virginia Judicial System must be completed. (Attorneys are exempted from this requirement.)
3. A minimum of five cases or 10 hours must be spent in actual mediation practice. Of these five cases, a maximum of two cases may be observations and a minimum of three cases must be co-mediations. A certified mediator must either observe the trainee or co-mediate with the trainee.
4. Five ADR-1001 (trainee evaluation) forms must be completed by certified mediators and must accompany the trainees' application for certification.

In order to be certified in family mediation there are four steps which must be completed in addition to the 20-hour basic course and the Virginia Judicial System training.

1. An additional 20 hours of training geared specifically toward family mediation, including the subjects of abuse, spousal and child support, child custody and visitation, and property settlement.
2. A four hour training course in Domestic Violence must be completed at an approved site.
3. Actual mediation practice must be done in family cases. A total of seven cases must be completed. A maximum of two of these cases may be observations. A minimum of five of the cases must be co-mediations with a

certified mediator either observing the trainee or co-mediating with the trainee.

4. Seven ADR-1001 (trainee evaluation) forms must be completed by certified mediators and accompany the trainee's application.

The transformative approach seeks improvement of the parties' understanding of the "how's" and "why's" of their particular dispute and their capacity to deal with others more constructively (Honeyman, 1995).

Empowerment "involves realizing and strengthening one's capacity as an individual for encountering and grappling with adverse circumstances and problems of all kinds" (Folger and Jones, 1994, p. 15).

Recognition "involves realizing and strengthening one's capacity as an individual for experiencing and expressing concern and consideration for others, especially others whose situation is 'different' from one's own" (Folger and Jones, 1994, pp. 15-16).

Structural dimensions "provide labels to describe the internal characteristics of an organization. They create a basis for measuring and comparing organizations" (Daft, 1995, p. 16).

Contextual dimensions "characterize the whole organization, including its size, technology, environment, and goals. They describe the organizational setting that influences the structural dimensions" (Daft, 1995, p. 16).

CHAPTER II

REVIEW OF THE LITERATURE

Theoretical Framework

The general systems framework is used to understand the structure, organization, and activities of the nine CDRCs. For the purposes of this dissertation, the framework is presented on three different levels. The most general, the macro level, gives an overview of how disputes are, and historically were, resolved. Included in the macro level is information highlighting the similarities in dispute resolution perspectives around the world and over time. The next, more specific, level is an meso level: examining the institutions in which dispute resolution occurs in the United States. The evolution and impetus for the development of these centers is discussed within the context of the meso level section. Also included in the meso level is information covering the ideological unfolding of the paradigm shift which provided the venue for the centers to emerge. Following that is a discussion of the types of dispute resolution programs, as classified by goals. The section also includes an overview of the chronology of the growth of the centers as well as a brief orientation to the kind of evaluations used to assess them. The last level, and the most focused, is that of the dispute resolution process itself; this is the micro level.

Following the section on organizations is a discussion of the three levels of dispute resolution. The contextual basis for understanding the organizational system and structure is explored. The first section following the organizational discussion, the macro level, provides a context to the organizational discussion; it affords the ground work for understanding that segment.

Organizations

Following is a discussion of the organizational system, structure, and contextual dimensions of the CDRCs and the process of mediation. This section offers a basis for the second and third level of the theoretical framework. The systems framework is the orientation of this chapter. The systems framework model was used as an analytic tool to view the functioning of CDRCs and mediation. The overall topic of organizational systems and the subtopics of organizational structure (structural dimensions) and contextual dimensions are discussed in this section. The organizational system refers to the ongoing, dynamic organizational activities. Specific traits of the organization fall into two categories: organizational structural and contextual dimensions. In order to understand and evaluate organizations both the contextual and structural dimensions are required (Hall, 1991).

Systems study

This dissertation has been described in terms of a systems study. The inputs, outputs, throughputs, outcomes and environmental roles being studied were researched through the use of both an extensive questionnaire and an in-depth mediation study. The overview of the questionnaire (Figure 1) gives an idea of the topic areas researched for this study. (A complete questionnaire is included in the Appendix 3.) They include the areas of general demographic information, origin and evolution of the organization, the physical plant, community presence, funding, fees, costs, and contacts.

Figure 1

Questionnaire Overview

QUESTIONNAIRE OVERVIEW

**DEMOGRAPHIC
INFORMATION**

Name
Identification of sites
Geographic setting
Incorporation status
Tax status

ORIGIN AND EVOLUTION

Origin
Auspices
Mission statement
Goals

PHYSICAL PLANT(S)

Ownership and
independence
Space(s)
Site description(s)

COMMUNITY PRESENCE

Membership
Board representation
Community support

FUNDING

Source(s) and % of total
support

FEES

Basis of fee schedule
Fee schedule
Regulations regarding fees
Pro bono work
Phone conciliations and
intake

COSTS

Per completed mediation
Calculation of cost of
mediation

CONTACTS

Calculation of number of
inquiries
Number of inquiries
Procedure for initiating a
case
Perceived patterns in
intakes as to timing

⇒The questions are fully
presented in the appendix
of the dissertation.

Gharajedaghi and Ackoff (1985) state that a requirement for a systems approach is “synthetic thinking.” Different than the initial steps of a normative analysis where the entity is first taken apart, synthetic thinking is deductive; the particular part (the center) is “taken to be a part of a larger whole.” Synthetic thinking compares and contrast the two processes rather than explaining the contained parts of the whole. Finally, analysis permits an inductive conclusion where knowledge of the parts is aggregated into knowledge of the whole. In the order of synthetic thinking, the final stage of the goal is understanding that “the containing whole is disaggregated to explain the parts” (pp. 23-24).

The expectation of this study is that it will make the intervention of mediation more effective by enlightening to practitioners in the field as to structures and processes that work as well as perhaps, those that do not. It is also hoped that this study will help justify the past work and future support of the ADR system generally and of the mediation system specifically.

Organizational systems

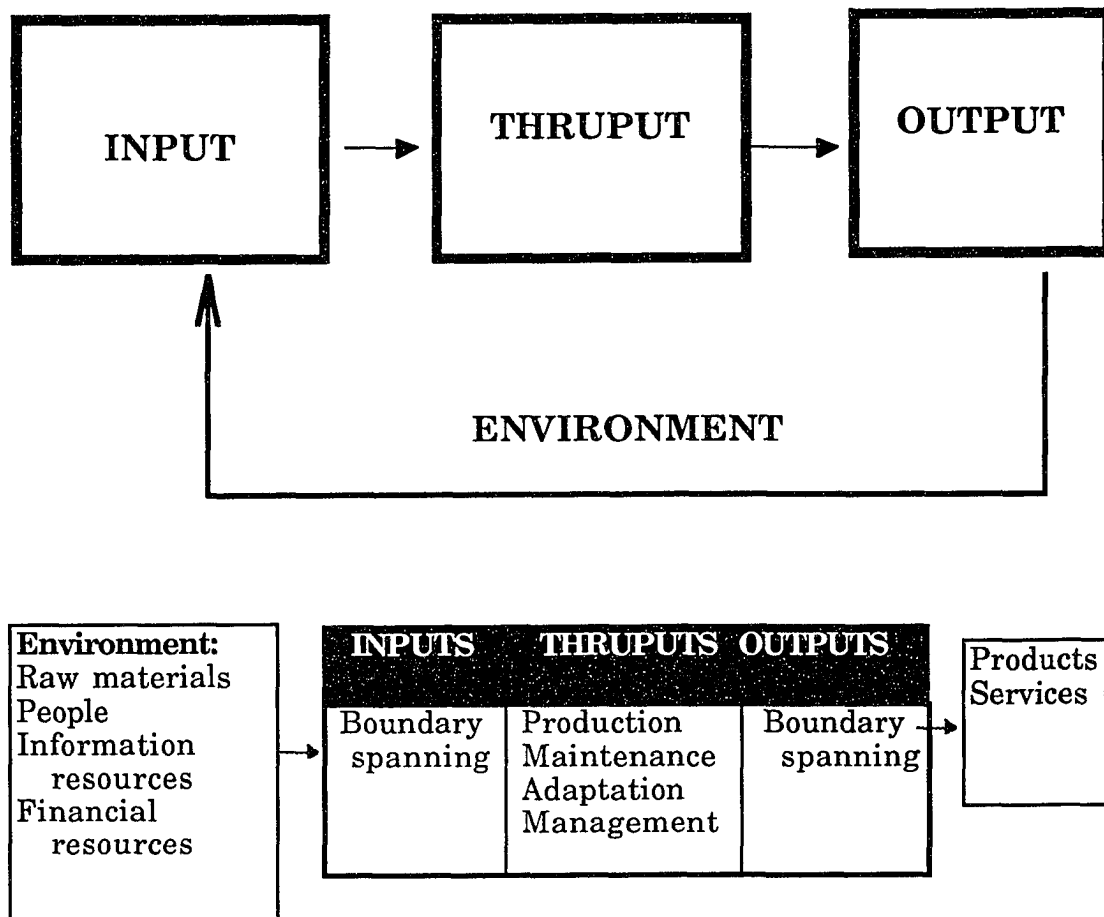
Both the CDRCs and mediation are discussed in this segment in terms of organizational systems. Organizations proliferate in society. They are omnipresent and essential (Daft, 1995; Bedeian, 1991). Although there is no potential for an autonomous or closed system in society, there are degrees of closed/openness. The system’s openness is characterized by the way it must adapt and change to shifts in the environment in which it exists. It must not only be able to import resources from its environment but must also be able to export as well. Failure to integrate with the environment, or a misreading of the cues, may be fatal to the organization’s survival.

Organizations are composed of subsystems. Although there may not be a specific overt delineation within the organizational chart outlining these subsystems, they exist nonetheless. There is an overlapping and interconnection of these subsystems. Similarly, departments and

individuals within the system will also serve multiple and overlapping roles. If any of these areas are ignored or denied, the organization will ultimately fail. Five subsystems or functions considered essential to organizations are: boundary spanning, production, maintenance, adaptation, and management (Daft, 1995). (An explanation of each of these subsystems is included in the segment on “Definitions.”) All of the activities of the organization fall into one of these categories. The following discussion provides a systems view of both the CDRC and mediation as an open system. Inputs, throughputs, and outputs for each of the two systems’ levels will be discussed simultaneously. Examples of the types of activities which fall into these different areas are given both in the diagrams and in the narrative. Figure 2 is a visual explanation of how a generic organization works; each of the five subsystems is presented in this figure.

Figure 2

Open System Subsystems



In any organization, there is a natural pattern that is followed. This pattern is consistent regardless of the complexity of the organization. There are inputs, throughputs and outputs in each organization. Within this pattern, the boundary spanning capacities of the organization reach outside the limits of the organization's environs to make exchanges of commodities with the outside environment. The other four subsystems fall into an area referred to as throughputs. The throughputs portion of the system is the "black box"; it does the transformative work of the commodities that are brought in by the boundary spanners. The third area of functioning is the outputs. Outputs are handled, once again, by the boundary spanning aspects of the organization. There is a continual loop from input, to throughput, to output, back to input. The other variable is the environment itself. As was stated earlier, there is no such thing as a closed organization; the environment has an effect on the organization.

Production, maintenance, adaptation and management all take place within the transformative, or throughput, process. Each of the subsystems has its own mission. The missions overlap and interface to formulate the transformative action of the organization. This is where the "work" of the organization is done. Environmental concerns are not a mere afterthought. The environment can drastically alter the organizational system.

The first of three aspects of the organization is discussed in this segment: how the system and subsystems function in an organization. In the next two segments, the organizational structure and the contextual dimensions of the organization are discussed.

Organizational structure

Hult and Wolcott refer to organizational structure as recurring interactions within organizations (1989). The codified and the whispered rules, and the mores of the organization are a part of its structure. With increased structure, more of the cognitive energy of the organization can be dedicated to less routinized procedures. Where the organization needs its

energy devoted to the original, as opposed to the routinized, situations, more structure is advantageous.

The formalized and understood structural patterns of the organization are full partners in organizational structure. Similarly, the customized practices of the organization may spawn structure just as the codified rules may be the origin. The dichotomy of the origins and evolution of structure also extends to the temporal aspect; the structures which are currently in place may be permanent or temporary in nature (Hult and Wolcott, 1990).

Structure is not important only for the relative ease it provides an organization in terms of everyday, recurring interactions. There is an efficiency that accompanies the structure of the organization. The impact of employing the “templates” of decisions was conceived by Simon (1976). He discussed the concept of “bounded rationality.” Simon said humans are limited in their capacity to collect and assimilate information. The preset structure of an organization helps the individuals who must function within that organization to free their energies and devote them to other productive endeavors, thus improving the productivity of the organization.

There is, of course, another, less appealing side to a highly structured organization: “groupthink.” When a structure has been established, there is the danger that rather than re-examining the practices of the organization at a basic level the policy makers begin with certain assumed “givens.” These givens, which originally formed the structure of the organization are now potentially choking the organization to death. The manufacturing of Saturn motor cars looked at their organizational structure from the ground up and re-invented the way cars were manufactured and sold; nothing was taken as a given. However, that endeavor required a tremendous commitment of time, energy, and finances. An established structure is economical with regard to a new commitment of these elements.

For centuries Americans have been convinced that restructure in an organization could come bring about desired outcomes. The concept of the

manipulative ability of the change of the form of an organization to effect an alteration of outcomes has been debated vociferously (March & Olsen, 1983; de Tocqueville, 1945). Many of the presidents of the United States, such as Jefferson, Franklin Roosevelt, and Reagan as well as several political science analysts, have functioned under the conviction that a change in structure does affect outcomes (Hult and Wolcott, 1990). The codicil to this last statement is that structure is not the only element of the equation that needs to be factored in. One cannot be certain of a direct or consistent correlation. The simplistic truism, “what goes in, must come out,” does not necessarily apply to critical environmental issues.

The affects of diversity in organization, human factors, and other environmental elements must be given appropriate credence. In the final analysis of a situation, it may be that extra-structural issues are an important consideration as a mitigating outcome factor. The careful discrimination of the impact of extra-structural issues may enlighten an otherwise seemingly-inexplicable outcome (Hult and Wolcott, 1990).

Structural dimensions

Structure is an organizational dimension. There are eight key structural dimensions of an organization. These dimensions describe an organization’s internal characteristics. With an understanding of these dimensions the CDRCs can be measured and compared to one another. The structural dimensions are: formalization, hierarchy of authority, specialization, standardization, centralization, complexity, personnel ratios, and professionalism. Each of these dimensions is measured by degree and is briefly explained (Hall, 1991; Daft, 1995). In the analysis portion of this paper, Chapter IV, these dimensions are referenced and used with regard to the 9 CDRCs.

Formalization pertains to, and is measured by, the amount of written documentation in an organization (Daft, 1995). This written documentation describes the behavior and activities of an organization. The job descriptions,

disclaimers, policy manuals, consent forms, procedures, and regulations are all part of the documentation that supports the level of formalization.

Another structural dimension is the hierarchy of authority, which is closely related to the span of control. An organizational chart is the visual representation of the organization's formalized managerial policy with regard to who reports to whom. When the span of a manager's control is narrow, i.e., he/she has relatively few supervisees, then the organizational chart tends to be tall. On the other hand, when the span of control is broader, the hierarchy is flatter and wider.

Specialization is measured by the extent to which the tasks of the organization are subdivided into distinct and separate jobs. The term "division of labor" is frequently used as a synonym for specialization. In the CDRCs the degree of specialization is generally quite low, i.e., an employee must be able to perform a variety of jobs within the organization. One will often find the secretary doing intake calls and scheduling mediations as well as referring clients out for alternative services.

Standardization in an organization means that there is a uniform performance of specific jobs. In the CDRC a standardized method of mediation would mean that all of the mediators would operate under the same guidelines as to how the mediation proceeds. It is particularly difficult to accurately gauge standardization of certain aspects of performance because the processes are so context sensitive.

Centralization and decentralization refer to where decision making takes place. When the decisions of the organization are made at the top levels of the hierarchy, then the organization is considered to be centralized.

Complexity has to do with the quantity of subsystems or activities under the umbrella of the organization. There are three dimensions to complexity: spatial, horizontal, and vertical. A spatially complex organization is one that is geographically diversified; i.e., it has multiple sites. Both horizontal and vertical complexity refer to the organizational chart. The horizontal complexity is a reference to the profusion of

departments and job titles that exist across the hierarchy. The vertical complexity is a reference to the number of levels that exist within the hierarchy.

A personnel ratio is the numeric comparison of the number of individuals employed in one department or function to the total number of employees.

Professionalism refers to the level of formal training and/or education that is required of individuals who work within the organization.

An examination of the organizational structure of each of the nine CDRCs allows these separate and diverse organizations to be measured and compared, one to the other. Following the next chapter, the analysis section of the dissertation, are charts comparing each of the CDRCs to one another by category. Eulau said that the examination of the structure provides the observer with a “snapshot of [a] unit’s behavioral processes” (1986, p. 102). He also stated that underlying rules of the patterns of interactions are comprehended through the structure. Therefore, the structural analysis can be very elucidating.

The mitigating factors to the outcome of a restructuring of an organization could be contextual. The next section deals with the environmental and organizational contexts within which the dimension of the structure exist.

Contextual dimensions

Contextual dimensions are a complicated matter. Confusion over these dimensions is frequent; the context within which the structural dimensions occur is composed of both the environment and the organization. Contextual dimensions encompass the entire organization including its organizational technology, size, environment, goals and strategy, and its culture (Daft, 1995; Hall, 1991). In the following paragraphs each of these dimensions is briefly discussed. The dimensions are referenced in the analysis section of this paper, Chapter IV.

Organizational technology is a measure of the level of technology utilized in the production subsystem. Both the technology level of the office machinery and the physical plant are included in this assessment.

Size is generally measured quantitatively by the number of employees in an organization. The organization's magnitude can be a measure of its size.

Environment is an all encompassing measure of all of the elements existing outside of the organization's boundaries. The environment is an extremely important dimension when attempting to evaluate the impact of any change in an organization. Certainly the inputs, throughputs, and outputs are predictable and probably identified in anticipation of any planned change. The environment, with its complexity, may fall into the category of the "less known" or less predictable elements which may confound the organization's plans and strategies.

An organization's goals and strategies, or objectives, "define the purpose and competitive techniques that set it apart from other organizations" (Daft, 1995, p. 17). The goals are often written down in the form of a statement of the intentions of the organization. The objectives are the organization's operationalization of the mission statement; the activities are meant to manage the environment; and the resource allocation necessary to accomplish it all. The goals and objectives establish the parameters for dealing with competition, clients, and employees; and of the operational scope of the organization.

One of the most elusive issues for a qualitative study is culture. It is unrecorded in the formalized, codified sense of a mission statement. The underlying assortment of beliefs, norms, key values, and understandings comprise an organization's culture. In organizational studies a cultural focus is a central (Morgan, 1986), and therefore important, issue.

Macro level: Dispute resolution

The ancient dispute resolution processes, strongly resembling those we use today, have been either a primary or alternative means of conflict resolution in the main cultures of China, Africa, and North America.⁴ Confucius suggested the use of mediation and arbitration many thousands of years ago. Around the globe, in small-scale societies, revered community members implemented mediation as a central method of conflict resolution (Nader and Todd, 1978). The early Christians accepted third-parties and peacemaking as part of their lives (Folberg and Taylor, 1984). A more recent example of the use and evolution of mediation can be found in early North America. Mediation was executed by a “headman” in many Native American tribes. This process changed as the tribal communities expanded and the population increased. Further altering the conflict management system was the encampment of Native Americans on federal reservations. The culture went through radical systemic changes. With these changes came a change in “peacemaking.” (A more comprehensive discussion of this topic is provided in the section on the history of the community dispute resolution centers.)

Mediation was common in New England during the colonial era and within cohesive immigrant populations (Auerbach, 1983). In mediation, the disputants convene with a neutral third party whose role it is to fill some or all of the following roles: to facilitate communication, be an impartial guide to negotiation, balance the power of the disputants, and provide needed perspective.

Edward Bellamy (1888, Chapter 19) commented on behalf of the common man and recognized the need for the availability of appropriate

⁴ For the purposes of this discussion the terms “macro,” “meso,” and “micro” will be used to describe the different levels of theory. This terminology was adopted from Christopher R. Mitchell (1993, pp. 78-94) and his use of the terms to describe his three levels of conflict resolution theory. Macro level is the broadest and most general level; micro level is the most specific level; meso level is the intermediate level.

judicial treatment for popular justice. He said, “the efficiency of industry requires the strictest discipline in the army of labor, but the claim of the workman to just and considerate treatment is backed by the whole power of the nation.”

The needs of a newly-developing industrializing nation led to the founding of the Noble Order of the Knights of Labor in 1869. This organization served a heterogeneous population of workers of all skill levels, races, gender and ethnicities. Its origins were in response to “the alarming development and aggressiveness of great capitalists and corporations...[which would] inevitably lead to the pauperization and hopeless degradation of the toiling masses” (Preamble, 1986, p. 7). Its purpose was to advocate on behalf of its population so that they have access to justice.

The history of mediation in the United States is centered in the labor movement. Both labor and management have historically turned to neutral third parties for relief from grievances. Labor relations were the primary arena for mediation prior to 1965. There are documented cases of professional mediators in collective bargaining disputes since the early part of the twentieth century (Aaron et al., 1977). More than 50 years ago there were courts which utilized and encouraged the mediation process (then called conciliation) in family disputes and minor criminal cases (Galanter, 1986; Goldberg, Sander, and Rogers, 1992). Acceptance of mediators broadened in the 1940’s.

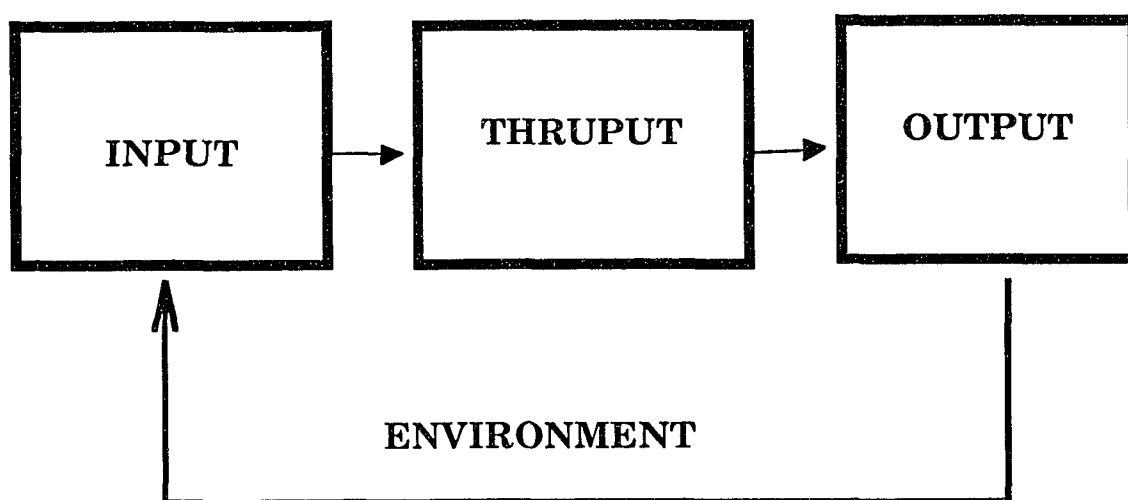
The CDRCs are open systems and must maintain an extraordinary level of interaction and flexibility in order to “stay in business.” Applying openness to the subject of politics is one way of demonstrating the importance of the system’s osmosis. Because so many of the CDRCs rely almost exclusively upon contracts from the Commonwealth for their financial sustenance (aside from contributions, grants and fundraising efforts), they are particularly sensitive to Virginia’s political climate. There is also a need to be in touch with the environment of the local political movement and climate because of the effects these have on city or regional

grants and contracts. There is even a necessity to be aware and involved in politics at a national level in order to assure or enhance survival. The 501 (c)(3) tax status enjoyed by the CDRCs is only helpful if the commensurate tax statutes make contributions advantageous to the benefactors.

Through this example it is apparent that not only are the inputs, outputs, and throughputs part of the system, but the environment is also a consideration. Figure 3 provides a visual explanation of how a generic organization works. Figure 4 provides an embellished version of Figure 3 with the addition of the actual applications appropriate to the CDRC and the process of mediation. The diagram provided for each of these organizations is meant to visually orient the reader to the functioning of the different aspects of each of the systems.

Figure 3

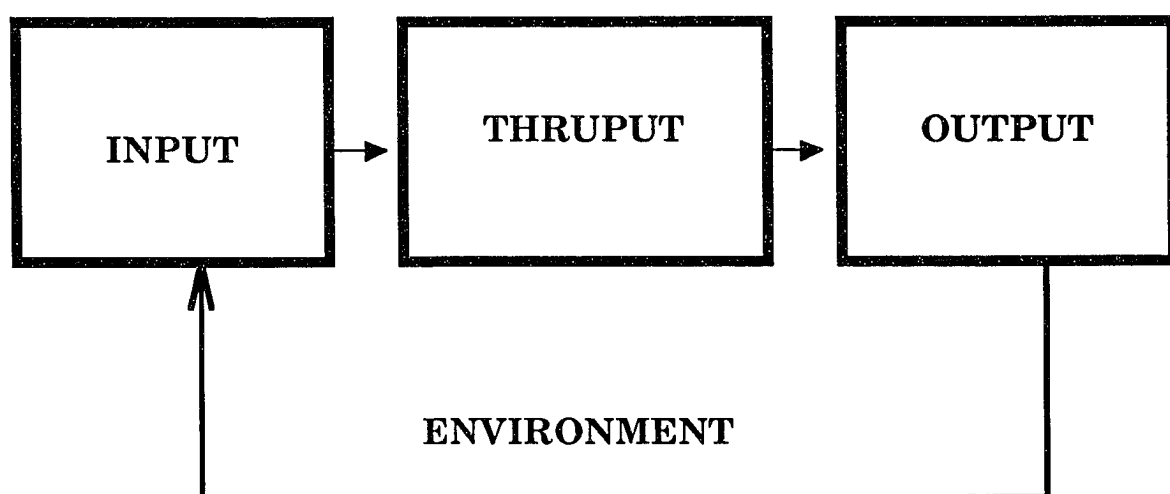
Open System CDRC



| INPUTS | THRUPUTS | OUTPUTS |
|--|--|---|
| <ul style="list-style-type: none"> • inquiry calls • legislation • contracts • grants • referrals • networking | <ul style="list-style-type: none"> • scheduling • mediation • mentorship • peer review • computing • data collection • personnel management • continuing education • Board coordination | <ul style="list-style-type: none"> • marketing • training • speeches • conferences • outreach • networking • referrals • lobbying • completed cases • certified mediators |

Figure 4

Open System Mediation



| INPUTS | THRUPUTS | OUTPUTS |
|---|--|---|
| <ul style="list-style-type: none"> •inquiry calls •clients •referrals from organizations •referrals from individuals •networking •intake information •training | <ul style="list-style-type: none"> •scheduling •mediation sessions •mentorship •peer review •continuing education •evaluation •writing agreements | <ul style="list-style-type: none"> •referrals •resolution •client satisfaction •mediator satisfaction •skill improvement •referrals to other organizations •agreements |

Meso level: Background of centers of community dispute resolution

Altering a major institution in the United States is an arduous undertaking. As dissatisfied as the constituents of the adjudication system may be, they still hang on tenaciously to the right to have “their day in court.” The citizens of the United States are protective of their constitutional rights; having access to their courts carries a high priority. As Americans they are averse to relinquish their constitutionally guaranteed right to a system of court adjudication (Lempert and Sanders, 1986). This reluctance prevails even if the alternative is for the less costly, or free, process of mediation (Pearson, 1982).

Yet, paradoxically, resolving differences outside of a courtroom, after formal filing of litigation papers, has long been the way most “court cases” have been solved in the United States. Galanter (1988) documents out-of-court settlement rates in civil cases of 85, 90 and 95% (Annual Report of the Administrative Office of the Courts, 1986). Kritzer finds that only one of every ten civil cases in courts in the United States is disposed of at trial; another fifth of the cases use some pretrial adjudication (1986).

Even when the traditional legal means were sought and judiciously administered, problems persisted. Economic and racial inequality were not eliminated. Neither has the quality of life improved as a result of the rights-oriented law-reform strategies (Merry and Milner, 1993). In point-of-fact, the states’ legal system was considered to be a problem rather than a means of the goal of reform. For many, however, the loss of community, more than the inequalities, were a fundamental issue in need of change. The reform that was needed was to restore the sense of community; it was to be built on the capacity of communities to manage conflict using community legal processes strategies (Merry and Milner, 1993).

The Ideological Genesis

In an effort to introduce alternative dispute resolution methods into the traditional system, the community justice system emerged. The explanation for its emergence offered by Duffy (in Duffy, et al., 1991) is that three separate movements were responsible for the birth and growth of community mediation as a movement in the United States. Incidents in history such as the war in Vietnam and Watergate lowered the populace's tolerance for injustice, while creating a yearning for increased self-governance. Second, during the 1960's and 1970's, the people's desire for self-governance was coupled with the humanistic education movement, citizen empowerment, personal relevancy and the outcry for a system of expeditious justice. Last, while the general population was busy changing its expectations, the chief justices and high-ranking government officials were also seeking a solution to the formal and cumbersome existing system with which they were burdened. Thus, the historic perspective, the needs of the individual, and the government's dilemma together formed the necessary impetus for the mediation movement's renewed vigor.

The multi-level empowerment advantages (including the individual and the community or social level) touted by mediation advocates include empowerment. While this study will not address the area of personal empowerment, personal empowerment is still recognized as a compelling motive of use of mediation (Cobb, 1993). There is the hope for improved community relations (Forester, 1987; Shonholtz, 1977), development of individual and unique community standards for dispute resolution (Dorius, 1993; Maines and Powell, 1986), and the legitimization of disenfranchised segments of the population through efforts to gain personal control of their own lives (Potapchuk, 1990) as a result of the mediation process.

On a societal level, an impetus for the push for viable mediation programs is "the need to restore peace inherent in the structure of the situation" (Merry, 1982, p. 178). The purpose of the court system itself brings the final reason to provide this system in a viable format: the search for justice. So far, research on mediation has focused on the quality of the

mediation rather than issues of fairness and justice. Issues of fairness and justice have been left uninvestigated as yet. The notable exception to this trend is the Brooklyn study. (Merry, 1982).

Justice Served

It was in the late 1960s that mediation began to get a firm footing in the United States. Two diverse visions charged the movement. Those who were concerned with legal reform saw the potential for building a structure of community resources which would complement the existing legal system. The officials of the justice system and civic leaders, on the other hand, predicted the possibilities for dealing with urban conflict (Merry and Milner, 1993; Bush and Folger, 1995). "One part of the movement responded to the civil right strife of the 1960's and 1970's. In 1972, the Community Relations Service of the Justice Department hired mediators to assist in resolving communitywide civil rights disputes." (Goldberg, Sander, and Rogers, 1992, p. 7).

Popular demand for a community-oriented justice system inspired the creation of community mediation programs in the 1970's and 1980's. It was the marriage of community organizing and legal-reform. At the center of these programs was the hope that the focus on community-based help for community-based problems would inject new spirit and faith in the community. These programs' objective was empowerment of the ordinary man and control over his conflicts. The goal of the movement was to replace an inappropriate and dominant legal intervention as the primary method of dispute resolution with a system controlled by peers and neighbors (Merry and Milner, 1993).

There were other objectives the movement also sought to attain. The traditional legal system, with its adversarial nature and win/lose outcomes, was seen as flawed. With the imposition of a judge's disposition, the standing system mandated the acceptance of norms which were not necessarily accepted or acceptable, much less assimilated, by the community upon which the judgment was imposed.

A dispute resolution means by which the settlement would be acceptable and accepted was needed. Moore speculated (1986), and Brown (1968), Pruitt and Johnson (1970), and Podell and Knapp (1969) researched the acceptability of proposed settlements to disputants. Each study found a settlement proposal was more acceptable to the disputants if it emanated from the mediator rather than a party to the dispute (Moore, 1986). In other words, it was easier for the parties to “live” with a suggested settlement from a neutral third party; they were more satisfied with the outcome.

Types of Programs

Near the end of the 1970's, ADR programs, looking for funding to support their cause, claimed to aspire to the goal of healing many of the needs of society through mediation. Healing the needs of society takes time, energy, and elephantine commitment on the part of many. Just a few years later, priorities were set for more realistically attainable goals for the programs. It was also recognized that every program did not have to have identical priorities or goals.

The evolution of programs and their goals led to the development of three types of programs in the United States. Their categorical division is determined by the dominant objectives of their sponsors and organizers:

- 1) System-oriented program: chief purpose is to supplement the formal dispute resolution system.
- 2) Service-oriented program: chief purpose is to offer service sensitive to community needs which is also relevant to the individual.
- 3) Community-oriented program: chief purpose is to develop or reinforce “the community’s” ability to handle its own problems (Schwartzkoff and Morgan, 1982).

Many of those actively advocating ADR were specifically seeking an informal method which would more closely match the goals of the parties, encourage the maintenance of long-term relationships, help the grass-roots rebirth of local communities, mitigate reliance on lawyers and codified laws, and attend and advocate for the nonparties affected by the conflict

(Merry and Milner, 1993). Being all things to all people became an oxymoron for ADR programs.

Nevertheless, there were programs that did try to do, or be a surrogate for, it all. As Shonholtz observes,

A neighborhood justice system, where all the system's functions are performed by trained volunteers, can be effective in reducing conflict, alleviating residents' fear of crime, lowering intra-community tensions, and building community cohesion and understanding. Decentralized neighborhood justice systems have the capacity to reach into a community and engage conflicts before they escalate into violence. The effort to empower neighborhoods to resolve their day-to-day conflicts is complementary to but separate from the traditional justice system. The primary task of the neighborhood delivery system is to reach cases before they enter the traditional justice system. (Shonholtz, 1984, pp. 16-17)

The San Francisco Community Boards program, established in 1976, is an example of an effort to satisfy all three of the above objectives of an ADR program. There is no doubt that the program did good things with an enviable training program for volunteers and offered mediation as an alternative and an innovation, but its impact upon the community did not demonstrate to researchers that the neighborhood changes had come to fruition. The expected goal of extraordinarily broad outcomes from a single program continued to be elusive.

Information about CDRCs

Although the mediation movement and ADR got its contemporary start in the CDRC, there is little literature available about the organization, structure, and processes of the CDRCs. Specifically, no investigation has been done of the CDRCs in Virginia. However, there is a well-beaten trail of assessing the quality of justice, client satisfaction, and amelioration of the inefficiencies of the traditional dispute resolution methods (Merry and Milner, 1993).

The CDRCs in the Commonwealth are a loosely linked group. They have many commonalities as well as many distinguishing features in their organizational structure. Hult and Wolcott (1990) have proposed the idea that a change in “structure can influence organizational activity and performance” (p. 34). Information about the common and disparate structural features of each of the CDRCs with regard to organizational activity and performance (outcomes) may be informative as well as helpful in decision-making.

A different approach to an evaluation was taken by Daniel McGillis and Joan Mullen. They attempted to describe the body of CDRCs in the United States (1977). Their research on a number of dispute resolution projects led them to a description of their location, clientele, referral sources, staffing, sponsorship, procedures and methods of operation, and case criteria.

There is a need to know more about this “wave of the future [mediation]” (Gillette, 1996); not just how it is practiced or what needs it fulfills, but also how the structure and organization of the centers in which it takes place matters. As Merry and Milner (1993) stated in their book, The Possibility of Popular Justice, “we are beginning to recognize the wide range of variation in community mediation programs...despite the common techniques they employ” (p. 18). Having a common context or overview is helpful when comparing the actual practice of mediation. In order to do an analysis of the organization and structure of mediation in the separate CDRCs, an analytical tool is needed.

The following section of the dissertation addresses the organizational aspects of the CDRCs and mediation. It is elucidating to have the theoretical basis for the discussion that follows. The theory gives a context for the organization system and structure.

Systems Approach

So that the reader may more fully understand the systems approach as it pertains to the CDRC, the following example is provided:

In a CDRC, the inputs would include legislation pertaining to mediation and certification, referrals, and grants. The throughputs for a CDRC may include the functions of scheduling, peer review, data collection, and personnel management. The throughputs for mediation may include writing agreements, mentorship, and scheduling and meeting with clients. The environment would include the political climate of the state and the economy of the Commonwealth. All of these examples are provided in graphic form in Figure 3.

Structural Impacts

The many different structural dimensions of the CDRCs are important with regard to having a fuller understanding of the commonalities and differences in the features of CDRCs. In turn, each of the structural dimensions will be briefly discussed.

CDRCs have a low level of formalization with regard to organization. The Legislature and the Supreme Court (referred to as the Court) of the Commonwealth have formalized some preliminary tasks done by the CDRCs such as the evaluation forms for court-referred work taken as part of a court contract with the Court. Professional organizations on a local, state, and national level have also added to the formalization.

In a CDRC where there may be an executive director in addition to an intake worker and a court liaison there would be a small span of control. In this organization the hierarchy would also be short and squat. All of the employees would report directly to the executive director. Where there are few employees and only one or two layers of employees under the head of the agency, the hierarchy is limited both vertically and horizontally. The accepted job description in a CDRC could be “whatever needs to be done.” Between the extensive use of volunteers and the limited size and funding restrictions of the CDRC, there may be little if any division of labor.

Standardization with regard to mediation in a CDRC is something that the Commonwealth appears to encourage. The standards set forth by the Executive Office of the Supreme Court specifies parameters for training

and mentoring, as well as ethical and practice standards which aim at having a standardized process for the practice of mediation. Conferences publicized by the Supreme Court's officials further encourage the standardization and uniformity of the process so that even after a mediator is certified there is at least a limited quality control.

Centralization for a CDRC might be found in the decisions that are made on a state level by the Court. Who will be certified by the Commonwealth is a decision, for example, that is handled on several different levels. First, the CDRC decides whom they will accept into a mentorship program. Then the recommendations of the individual mediators are sent to the Court to be reviewed. On different levels, each of these decisions are centralized. Obviously, the Commonwealth's level of centralization and the impact of their decisions are more far-reaching than that of the individual CDRCs. The individual CDRCs each do make a decision that is centralized with regard to their intake and mediators as to whether a case is appropriate for mediation because of a pre-existing or historical situation of domestic violence or drug abuse.

CDRCs are spatially complex if they have multiple sites for the delivery of service such as branch offices or court sites. As to their horizontal and vertical complexity this dimension refers to their organizational chart. A CDRC with a profusion of departments and job titles would be deemed horizontally complex. The vertical complexity of the organization is determined by the number of levels of jobs within the hierarchy; for example, a CDRC tri-level hierarchy might have an executive director, a training coordinator, and a trainer.

In a CDRC, the dimension of personnel ratios is frequently difficult to compute with accuracy because of the prolific use of volunteers working in a low specialization organization. Even the paid employees must be flexible and be able to move with facility from one job, department and level of the hierarchy to another. Therefore, the computation of a personnel ratio would be complicated by first trying to determine in which department a volunteer or an employee works. This issue can be simplified by using an employee's

count as a fraction of a whole in each of the areas to which they devote their time.

The issue of professionalism is also complicated in the CDRCs. Because the CDRCs are non-profit organizations, they attract individuals who view their work as charitable and for the betterment of society. In many CDRCs, the employees are highly educated individuals. However, the volunteers who work for the CDRC vary greatly in their educational and training background, especially in the field of mediation. The qualifications for a certified mediator within the Commonwealth do not require an applicant to have an advanced degree or a extensive amount of training, although there is a continuing education and practical application requirement for the re-certification of mediators.

The National Standards for Court-Connected Mediation Programs (Center for Dispute Settlement, 1996) in their "Qualifications of Mediators," discusses the optimal elements in the training of a mediator: personal qualities, fundamental skills, and the necessary knowledge for a competent performance of mediation. The Commentary to Standard 6.1 recognizes that there are situations in which personal qualities or a professional or educational background may supersede each other in importance.

There are, however, those individuals on the other end of the spectrum. These people have a proclivity for the field of mediation. They seem to have a natural talent for the skills required, and for them the training period is actually just refinement and skill building. This talent has no apparent link to educational achievement or vocational background. In fact the State Justice Institute's National Standards for Court-Connected Mediation Programs in its Standard 6 states:

Courts have a continuing responsibility to ensure the quality of the mediators to whom they refer cases. Qualifications of mediators to whom the courts refer cases should be based on their skills. Different categories of cases may require different types and levels of skills. Skills can be acquired through training and/or experience. No particular academic degree should be considered a prerequisite for

service as a mediator in cases referred by the court. (Center for Dispute Settlement, 1996)

For those who would argue against a minimum educational requirement based upon this information, this dissertation would caution that while an minimum educational requirement cannot guarantee that someone will be a good mediator, it does give at least one subjective criterion for mentorship which will hopefully increase the chances of a having a candidate with the ability to receive and utilize information offered in a mentoring setting.

There is broad support in the literature for a generic approach to expertise in a mediator (Pruitt, 1995; Bush and Folger, 1994; Sarat, 1994; Sandole, 1993; Kolb, 1985; Burton, 1984; Noble Order of the Knights of Labor, Preamble, 1986). On the other hand, there are those who feel, more along the lines of the exceptional case to which the Commentary refers, that expertise and/or experience may be valuable assets. Lawrence Susskind discussed the attributes of both perspectives. His position is that a lack of expertise may slow the mediation process down unnecessarily and that the experience that a mediator has in a particular field may be a helpful resource in thinking past the boundaries (Forester, 1994). Susskind feels that expertise is a worthy addition to a mediator's qualifications because of information and suggestions that he may add to the mediation. However, other practitioners feel that this expertise may actually be an enticement to become directive and should not be a goal in seeking a mediator or mediation team (Bush and Folger, 1994; Folger and Jones, 1994).

Contextual Impacts

The contextual dimensions of the CDRCs are also essential to a fuller understanding of the commonalities and differences in the CDRCs. In their turn, each of the contextual dimensions will be briefly discussed. The organizational technology level may be appraised in a CDRC by assessing

office machinery used to track and record mediation proceedings and agreements, fax machines, voice mail and answering machines.

Although a quantitative measure is often used as an indicant of size, it is actually a measure of the organization's magnitude. Therefore, size may be measured by numbers of mediations performed, volunteers, inquiries, intakes, agreements, or mediators trained.

In the Commonwealth there is a variety of environments in which the CDRCs were born and raised. An environment may include the elements of the non-profit private agency, a university, or the government.

Each CDRC has a mission statement which is the canonical statement of the goals of the organization. The mission statement of an organization is meant to be an enduring rather than transitory representation of the goals. The objectives are the means by which the CDRC plans to carry out their mission, manage their environment, and develop and allocate the resources in order to make it all possible. A CDRC uses its goals and objectives to guide it in dealings with issues such as competition, clients, employees, training, and the operational scope of the organization.

One of the most intangible features of an organization is that of culture. Without an examination of the culture of the CDRC specifically, and mediation generally, there can be no true understanding of the issues at hand. Culture is viewed through a window of office layout, open/closed door policies, slogans, attire, and stories of the CDRC. The dimension of culture of the CDRC was analyzed using the tools of the in-depth agency and mediation interview with the use of the mediation case studies.

Description of Mediation

In order to analyze the mediation process, attempts have been made to describe mediation in an objective manner. In this section four separate models, one authored by Christopher Moore, one by Kressel, and two different models from the group of Pruitt, McGillicuddy, Welton and Fry (1989) (Figure 5 and Figure 6), are presented. These models were created to

aid in such an analysis. Following these models is the model created by the author developed as an analytical tool for the transformative mediation process.

Kressel (1972) devised a Three stage model for the mediation interviews: reflexive, nondirective, and directive (Figure 5). The first stage, reflexive, focuses on orienting the parties to the process of mediation and to building rapport between the mediators and the parties. The second stage, nondirective, allows parties to find their own mutually amenable solutions to the conflict. Directive, the final stage, is one of the discovery and preliminary discussion of the particulars of the resolutions or settlements. The purpose of the directive stage is to move toward a termination of the dispute.

Pruitt, McGillicuddy, Welton and Fry (1989) developed and tested a five-stage Decision-Making Model (Figure 5). In this model the gathering of information is the preliminary step. Following is the disputants' and mediators' opportunity to identify the issues at hand. The third step is the generation and subsequent evaluation of alternatives, preferably by the disputants with the facilitation of the mediators. Moving the parties to decision making is the fourth step in the process. Last, the decision, if one has been made, must be implemented.

Figure 5

Two Basic Models of Mediation

Three Stage Model
(Kressel, 1972)

1) Reflexive

- orienting parties to process of mediation
- building rapport

2) Nondirective

- opportunity for parties to find mutually acceptable solutions to their own problems

3) Directive

- discovery and preliminary discussion of particulars of agreement (goal: termination of dispute)

Decision-Making Model
(Pruitt, McGillicuddy, Welton, and Fry, 1989)

1) Gathering information

2) Disputant and mediator opportunity to identify issues

3) Generation and evaluation of alternatives (preferably by disputants)

4) Precipitate decision-making

5) Implementation

Figure 6

Hybrid Model of Mediation

Hybrid Three-Stage Model
(Pruitt, McGillicuddy, Welton, and Fry, 1989)

- 1) Setting the stage
 - clarifying the ground rules
 - gathering information
 - exerting social control
 - rapport building*
 - display of expertise*
- 2) Problem Solving
 - posing issues
 - generative alternative
 - trying to improve the interpersonal atmosphere
 - rapport building*
 - display of expertise*
- 3) Achieving a workable agreement
 - urging agreement
 - pressing heavily for agreement
 - suggesting implementation methods
 - rapport building *
 - display of expertise*

* these are continuing phenomena found at each stage

Figure 6, the hybrid model of Pruitt, McGillicuddy, Welton and Fry (1989), was developed after empirical testing was done on the Pruitt, et al., model and the Kressel model by Pruitt, et al. (1989). Pruitt, et al., presented the hybrid model as an accurate reflection of mediation process. The models, as they were originally developed, relied upon the retrospective reporting by mediators of their mediations. In the research work done by Kressel, and Pruitt, et al., the accuracy and value of retrospective reporting by mediators of events of the mediation was found to be poor. Cobb referred to this type of information about mediation as 'the myth of mediation' (Cobb, 1994). The value of using the retrospective reporting of mediators was also questioned by Kressel and Pruitt (1985), and Pruitt (1995).

The optimal mediation situation, according to Bush and Folger, would be for the disputants to come to an agreement and craft that agreement with as little intervention as possible from the mediator(s). The most important benefits of the transformative process are that the disputants are supported in *their* choices and that an exchange in perspective occurs. The Three-Stage Model, the Decision-Making Model, and the Hybrid Model (Pruitt, McGillicuddy, et al., 1989) are aggressively aimed at attaining an agreement. These models are not harmonious with the transformative approach (Bush and Folger, 1994; Honeyman, 1995). Initially, the mediators in these models may be willing to allow the disputants the opportunity to choose the direction of their mediation. If the disputants do not go in the direction the mediator feels is appropriate or most beneficial, then the mediator will intervene.

Chris Moore devoted his book, The Mediation Process (1986), to his model of mediation (Figure 7). While Moore's model is less directive and problem-solving-oriented than either the five-step model or Kressel models, it does not adequately allow for the support of personal choices of the disputants and the perspective exchange necessary to the transformative process (Folger and Jones, 1994). Without a model of mediation amenable to the transformative process, a transformative mediation cannot occur. The

transformative process is discussed in more detail in this chapter in the section on “Elements of the transformative process for evaluation.”

The researcher’s transformative process model relied heavily upon Moore’s model as a starting point for the newly developed model. An overview of the transformative model may be found in Figure 8. The full transformative model may be found in Figure 9.

Figure 7

Moore's Mediation Model (Moore, 1986)

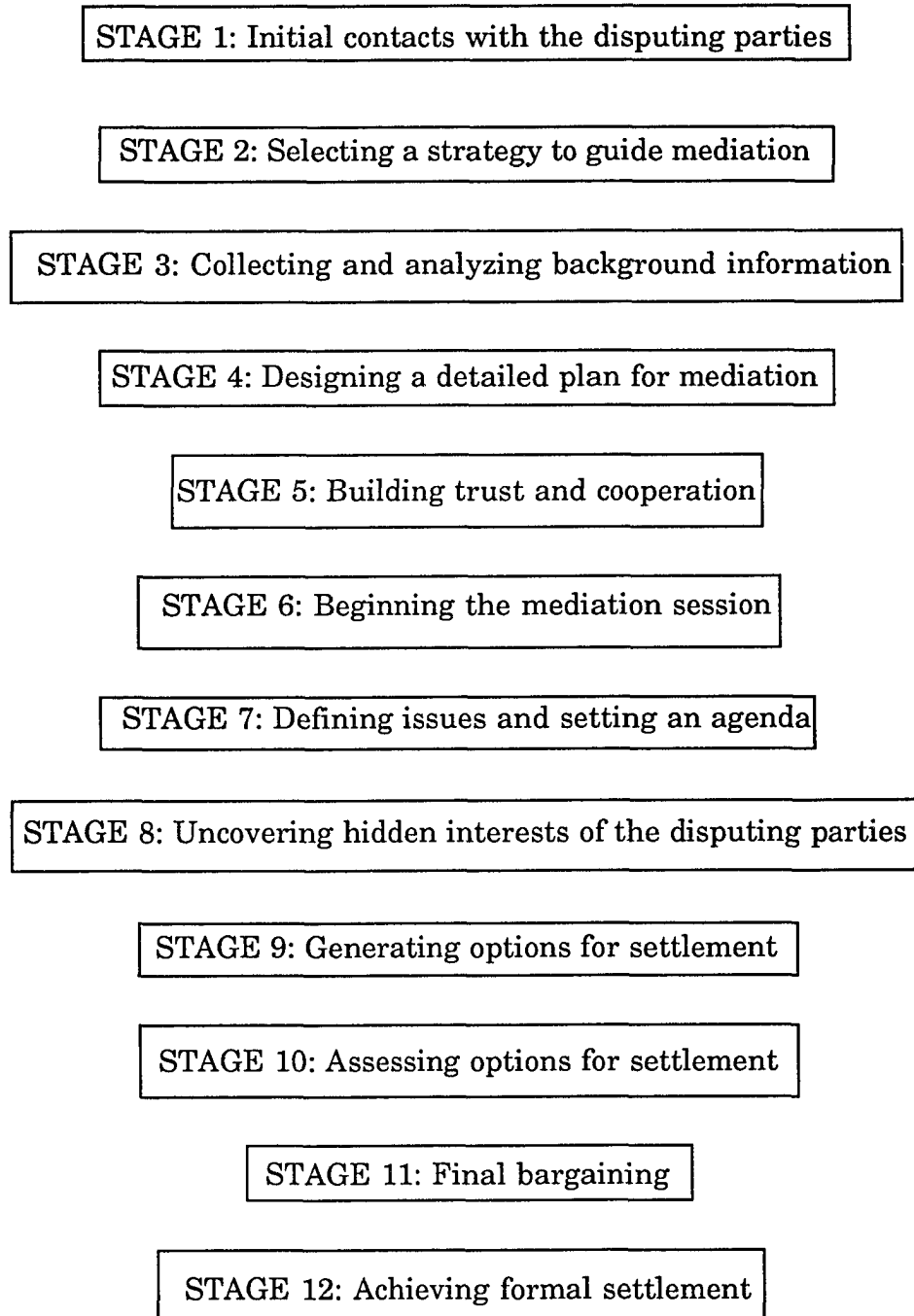


Figure 8

Process Chart Overview

CONTACT STAGE

Actual contact is made between the CDRC and a party.
Establish credentials and rapport
Exchange information about the case and the process
Coordinate parties.

MEDIATION STAGE

Preliminary and didactic information dissemination
Introduction of participants and mediators
Familiarize parties with mediation
Paperwork and disclaimers completed
Build commitment and rapport

COGNITIVE STEP

Collect, analyze, and organize data given
Interviewing
Utilize interest-based approach
Mediators “move” the mediation

NEGOTIATION

Managing emotions and perceptions
Prioritizing interests
Cost/benefit analysis, BATNA

Figure 8
Continued

AGREEMENT STAGE

Final negotiations

Realizing the agreement

Establish evaluation, monitoring and enforcement procedures

Operationalize agreement

Sign agreement

Figure 9

Transformative Model

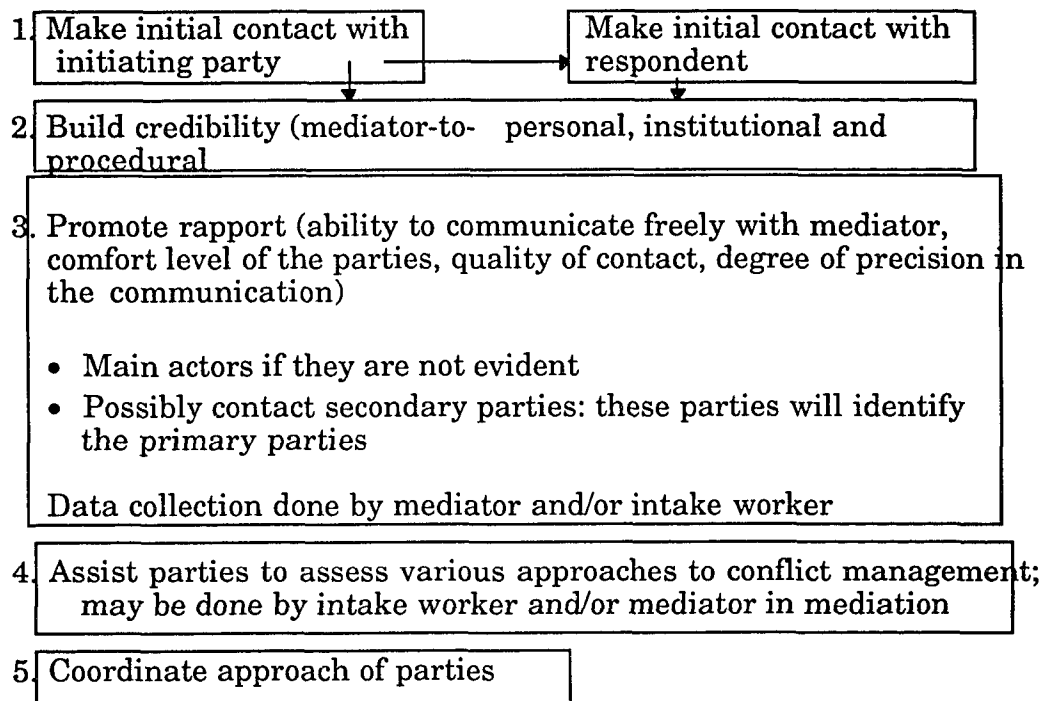
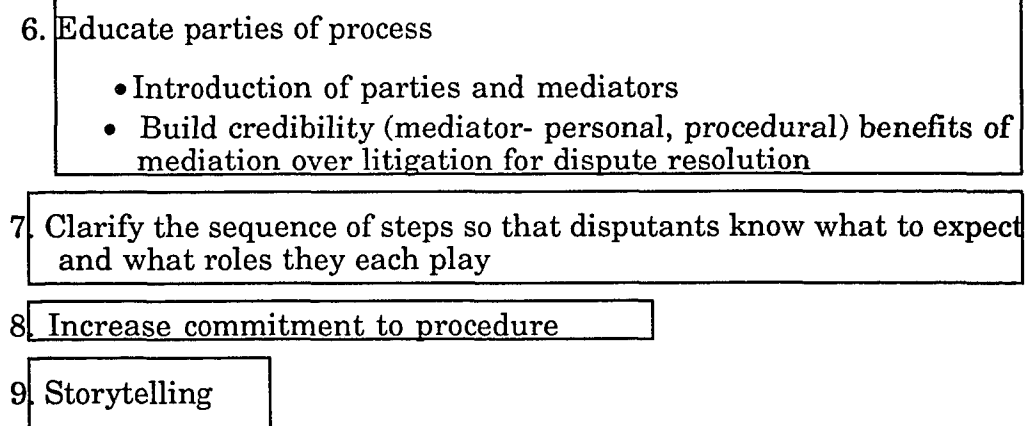
Contact Stage**Mediation Stage**

Figure 9

Continued

Cognitive Step

10. Collecting and analyzing relevant data about:

- People in conflict
- Dynamic of conflict
- Substance of conflict

Parties (both make opening statement based upon substantive issues)

- interviewing
- elaboration
- active listening
- questioning
- direct clarification questions
- summary questions
- repetition questions
- closed questions

11. Verify accuracy of data

12. Organize information (perhaps) visually

13. Minimize impact of inaccurate or unavailable data

14. Contingent moves to respond to situation peculiar to the specific conflict (are they aware of interest based negotiation?)

15. Mediator:

- sets tone
- defines agenda
- established roles and behavioral guidelines
- obtain commitment to negotiate

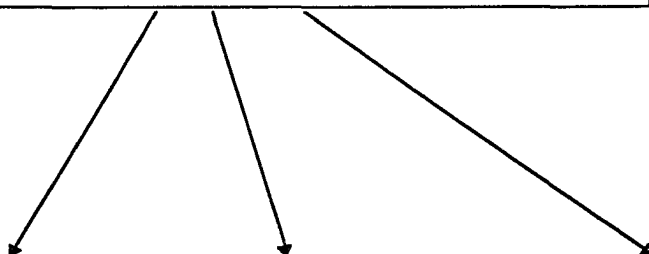


Figure 9
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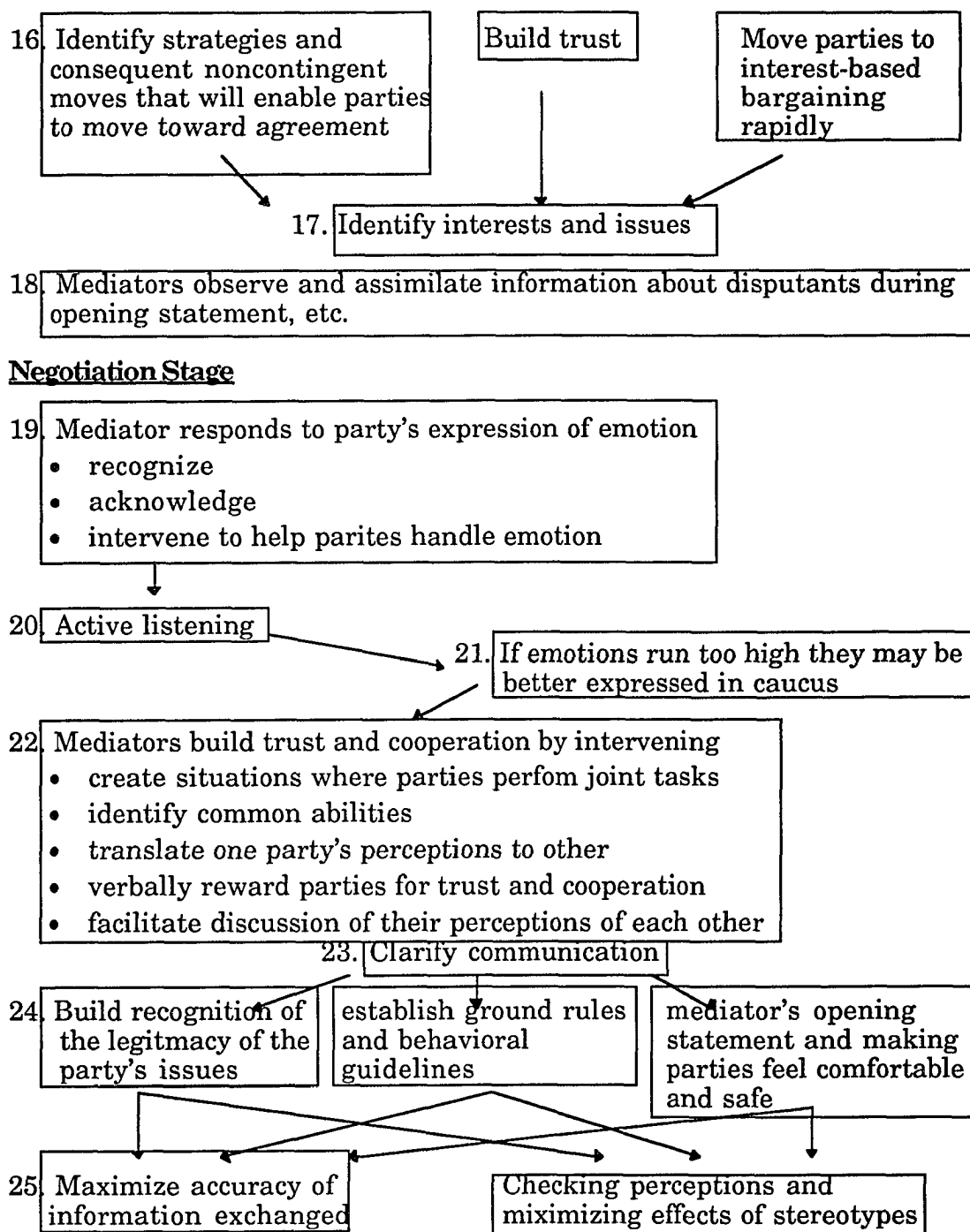


Figure 9
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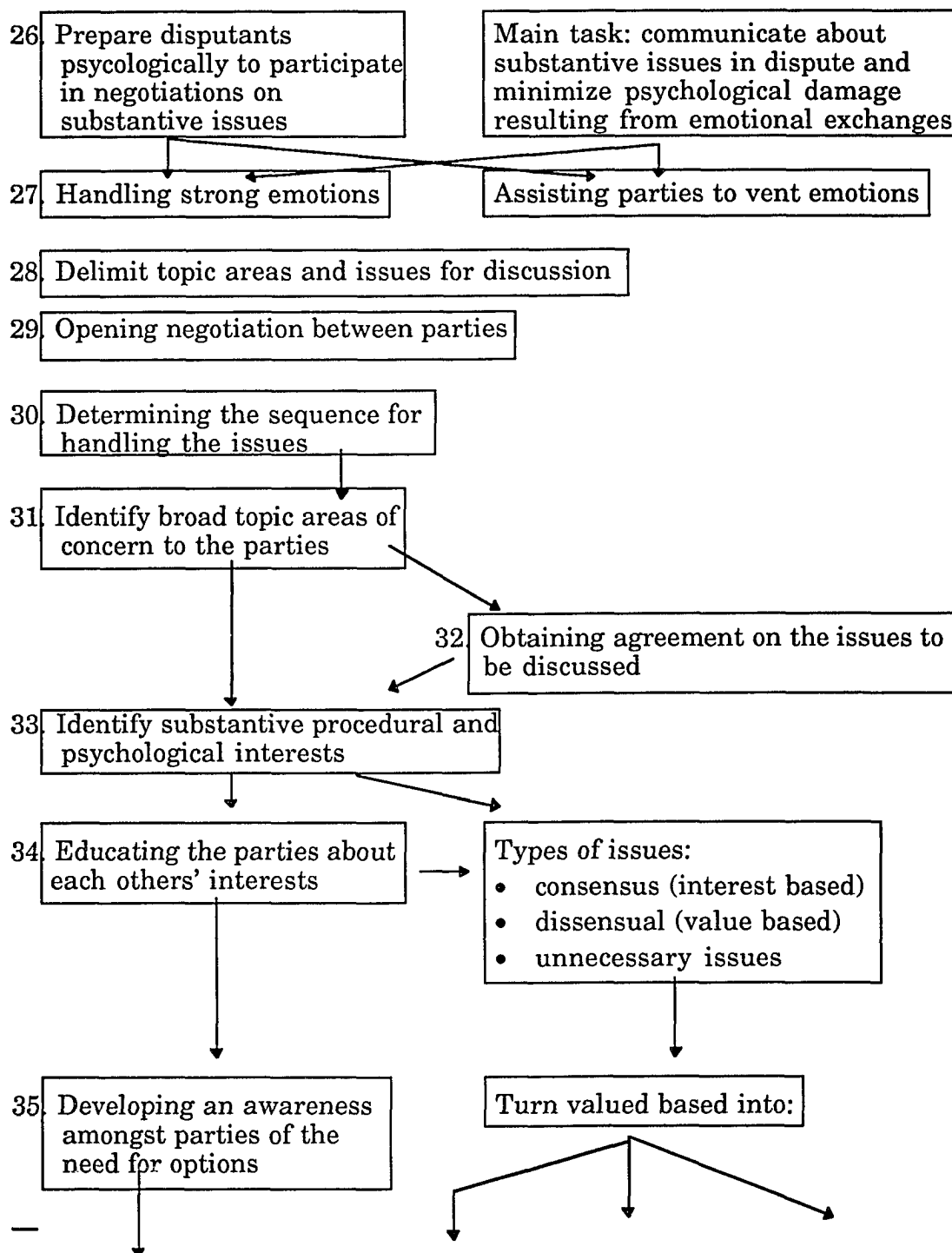


Figure 9
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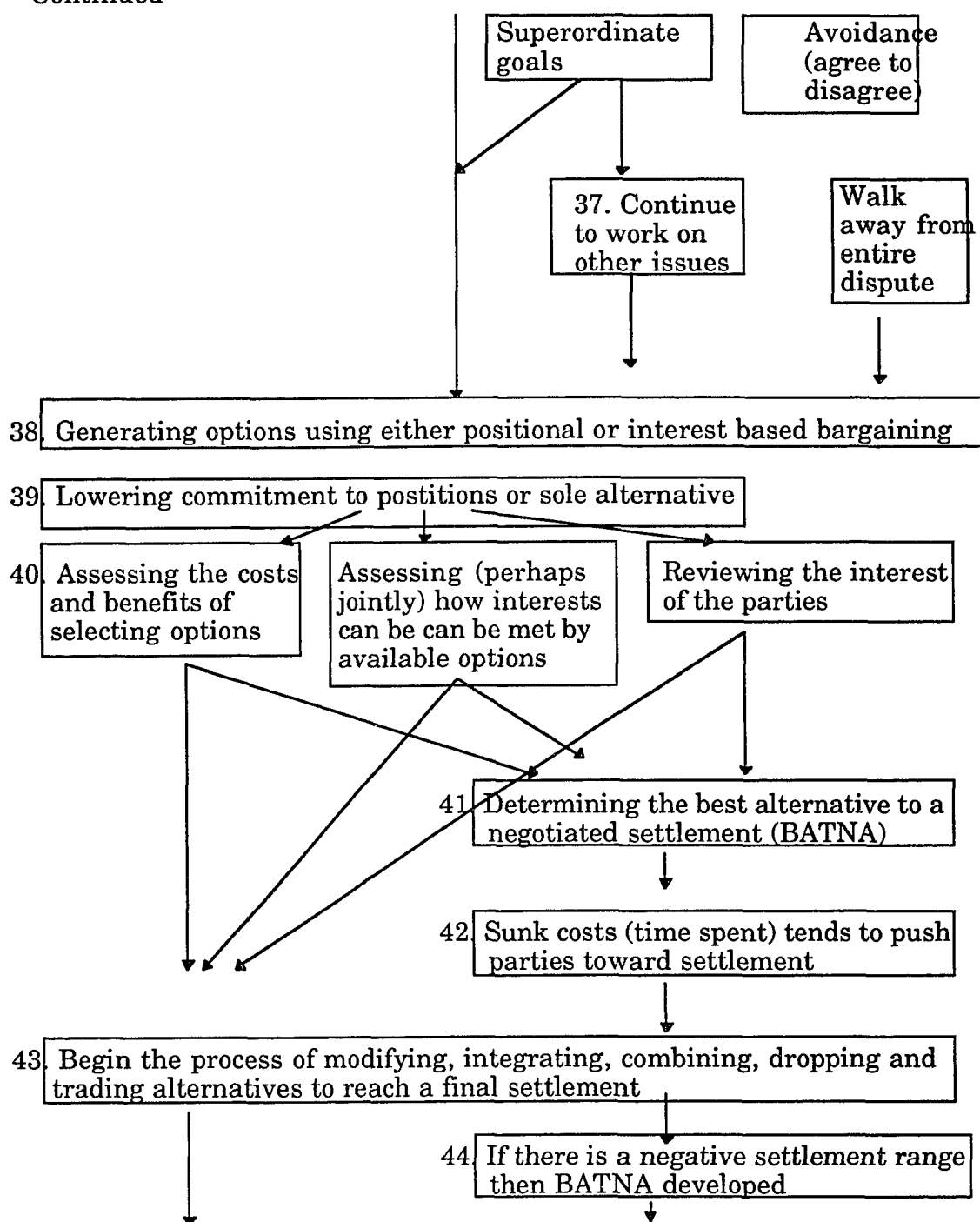


Figure 9
Continued

45. Reach agreement through either incremental or convergence of positions, final leaps of faith to package settlement, develop plan for failure to perform
46. Establish an evaluation and monitoring procedure
47. Formalize the settlement and create the enforcement and commitment mechanism
48. Identify procedural steps to operationalize the agreement
49. Sign agreement

The CDRCs Growth

Community mediation has a variety of different beginnings. The American Arbitration Association claims its founding year of 1912 as the beginning of the CDRC movement. Community programs will cite a time in the mid-1970's when community intervention was "discovered" by community activists. The Columbus Night Prosecutor's Mediation Program (discussed below) claim 1971 as the starting date of that program and, inevitably, the dawning of the movement (Ray, 1991).

In the 1960's, the early days of community mediation, there were community programs in Philadelphia and Columbus, Ohio. These programs were put into place in order to ease the docket of some minor criminal cases. By the 1970's there were about a dozen such programs in the United States. The 1976 Pound Conference that gave a crucial push to the ADR movement; lawyers and leading jurists expressed concerns about the delays and expenses of an ever-increasingly crowded system of justice (Goldberg, Sander, and Rogers, 1992, Tyler, 1989). A task force was created based upon the vision of Frank Sander, a patriarch of the field. The result of the work of the task force was the funding of three "multidoor courthouses" (Levin and Wheeler, 1979; Ray, 1985).

The big growth came about in the next decade; Bush and Folger (1995), and McGillis (1986) reported over 180 centers by mid-1980's. The rapid growth slowed and apparently leveled off in the late 1980's (McGillis, 1986). Today, the Dispute Resolution Directory reports approximately 400 community programs in the United States (Johnson, 1993). More important than mere growth is the diversity of areas where mediation is being applied and accepted: institutional (such as hospitals, prisons, and schools), housing, divorce and family, small claims, personal injury, insurance, claims against and within governmental agencies, general business, environmental (Singer, 1990), progressive eldercare, and probate. Since 1990 the expansion of the areas of infiltration and acceptance has burgeoned (Wall and Lynn, 1993). The trend has spurred a proliferation of

for-profit mediation centers (Bush and Folger, 1995). The differing priorities of those interested in ADR led to the advent of the melange of venues and orientations of the ADR systems that exist today. (An overview of some of the most highly valued goals of ADR can be found in the definition of mediation.)

Micro level: Mediation

In the first segment of this three-tiered discussion, dispute resolution processes were discussed generically and historically. The second tier discussed the system in which this dispute resolution occurs. In this final tier the specific process of dispute resolution is discussed. The discussion is structured at two conceptual levels: the broader, overarching concepts are discussed first, followed by a discussion of the more specific and practical level.

The review of the literature in the field of conflict resolution has led to a distinction between two levels from which to view the applicable theory. The macro level is descriptive of the conceptual field of conflict resolution. The operating level "theory," on the other hand, provides overviews of the philosophies and processes of different clinical orientations within the area of dispute resolution through the practice of mediation.

Mediation is a process that is rapidly increasing in popularity and demand. The reason for this trend is debatable; however, the trend nonetheless certain and seemingly inexorable.

The growing trend toward alternative dispute resolution and specifically mediation has many explanations but the unifying theme is the perception that mediation represents a fundamental change in the way Americans look at their institutions of justice, the family, and the resolution of personal problems. There is widespread agreement that we want and need to re-humanize our dispute resolution procedures and return responsibility for reaching solutions to those in conflict. (Vroom, et. al, 1982, p. 5)

Once relegated exclusively to the role of a passive observer or of a involvement-limited witness, disputants now may choose to take an active role in the process and outcome of their dispute resolution. Rather than being released to a super-ordinate power, that is, a judge or arbiter, the outcome of the mediation is within the control of the disputants. The benefit is two-fold; not only do the disputants feel as if they have had an integral part in the process and are, therefore, personally vested in it, but they also are likely to feel a sense of individual empowerment (Honeyman, 1995; Cobb, 1993; Marlow and Sauber, 1990; Singer, 1990; Haynes and Haynes, 1989) which should carry them into future interactions with a new perspective and skills.

Perspectives on the theory of conflict resolution

Establishing a broad conceptual perspective of conflict resolution is a prerequisite for the common ground of a discussion of mediation. For this reason this portion of the review begins clarification of conflict resolution and its context. There are different perspectives regarding the theory of conflict resolution. One perspective is that there exists a theory continuum encompassing both conflict resolution and conflict. The implication of the acceptance of this assertion is that there is no reason to develop a separate body of theory for conflict resolution; in fact, it would be inappropriate to do so. If this assertion is to be accepted, then the developments in the field should be approached as methodologies.

If conflict and conflict resolution are disparate, then a case can be made for the need to draw a distinction between conflict theory and conflict resolution theory. The latter relates specifically and exclusively to conflict intervention. The vociferous complaint of academics in the field of conflict resolution is that “although there are many comprehensive theories of conflict, theories of conflict resolution are few and far between” (Scimecca, 1991, p. 33). Deborah Kolb went even further to say that “mediation is noteworthy for its almost complete absence of theory about social conflict and intervention” (1994, p. 489). There is also the conviction that without the

commensurate true theory the field cannot produce professionals. “Those who practice ADR will not become true professionals until ADR incorporates a theoretical base to undergird its practice and, until it has such a base, it will remain an instrument of social control” (Scimecca, 1993, p. 211). Theory provides the guidance that practioners require to transform what they do in mediation from working by the seat-of-the-pants (Scimecca, 1993) using a bag-of-tricks (Lang, 1996; Sandole, 1993) and hit-and-miss techniques, processes, and models; to a science and an art of mediation. The development of theory is necessary to assist in the transfer of information from those who are expert at their work to others who wish to learn.

Indeed, the preponderance of conflict theorists have chosen either to be silent on the topic of conflict resolution or to support the development and use of methodologies and processes to resolve/settle conflict. Dennis Sandole (1993) confesses that an integrated theory and the commensurate practice of a full-blown ‘tapestry’ “must await a later time” (p. 21). Scimecca asks the question, “Is there any theory in the practice of ADR?” His answer was, “..my position is that there is little, if any, theory in the field of ADR. What is called theory is basically the idiosyncratic use of various processes, what is usually referred to by practitioners as ‘seat-of-the-pants theory’” (1993, p. 212).

Mediation is a piece of ADR; alternate dispute resolution is treated as a piece of conflict resolution; and conflict resolution, as a piece of conflict (Scimecca, 1993), is treated as a given, an afterthought, or a mystical process. “ ‘Conflict as a process’ is where third parties enter the scene. Their ‘trick’ is to create the ‘magic’ by which *Realpolitik*-driven *competitive* processes can be replaced (or supplemented) by *Idealpolitick*-based *cooperative* processes of conflict resolution” (Sandole, 1993, p. 21).

It is argued in this dissertation that conflict and conflict resolution are disparate and that there is an important difference between conflict theory and conflict resolution theory. Unfortunately, as Sandole (1993) and Scimecca (1993) have discussed, there is not yet a salient theory of conflict

resolution. “Strides in understanding the ‘figure’ of mediation have come at the expense of even elementary considerations of the ‘ground’” (Folger and Jones, 1994, p. 30). The quest for theory is an important one, for without theory the field only has the opportunity for the transfers of information obtained through intuitive ability and experience.

Conflict resolution theory: Esoteric level

Although it is generally agreed that there is not a salient theory of conflict resolution, there are attempts and partial work which make a contribution to the field. On the broadest of levels, there are two categories into which the theory of conflict resolution falls: human needs theory and game theory. Human needs theory emphasizes the genetic determinism of basic human needs (referred to henceforth as BHN) (Burton, 1990). BHN are referenced without factoring the impact of social and cultural institutions. This approach has been in the social science literature for some time; it is John Burton who is associated with this theory when applying it to the subject of conflict resolution theory.

Burton acknowledges the work of Maslow (1943, 1987) and Sites (1973) as a starting point for human needs theory. Sandole (1993) credits the works of Maslow and Davies with the development of the fundamental background on which Burton’s human needs theory is constructed. Human needs theory has been broadly criticized for its omissions, inadequacies and inability to answer recurrent questions about its underlying premises. Given credence without logical or didactic support is the universal nature of the BHN; the number and hierarchy, if any, of the BHN; and if any or all of the BHN can be partially fulfilled (Avruch and Black, 1987; Scimecca, 1990; Mitchell, 1990). The questions about partial satisfaction of BHN leads the discussion back to the pressing questions of the durability, acceptability,

and permanence of a resolution versus the incompleteness and ephemeral nature of a settlement.⁵

A second contender in the quest for meaningful conflict resolution theory is game theory. Game theory has as its underlying premise the condition of perfect information (Schellenberg, 1982). This assumption requires a broad leap of faith and cannot be taken as a given. Rarely, if ever, is there a condition of perfect information between conflicting parties. Were the hurdle of perfect information amongst parties satisfied, there would still be a second problem inherent to game theory: that of cooperation of the parties which assumes honest and forthright communication between them. The roles of social structure, culture, and power, inherent to social situations, are not factored into the game play (Scimecca, 1993), thereby further weakening its ability to fit with the situations it must face down.

Conflict resolution theories are the esoteric aspect of this segment. Not only are they understood by few, but they are accepted by even fewer. There is also a dearth of theories about the practice of conflict resolution. The next section deals with application-type theories-- the more general, less sophisticated aspects the topic.

Application "Theory" of conflict resolution: clinical level

In this segment two application "theories" of conflict resolution are reviewed. The first is based on the work of McKersie and Walton (1992); the second is based on the work of Pruitt (1992) and Rubin, Pruitt and Kim (1994). McKersie and Walton (1992) qualify their theory as one which "sits between the two poles of being purely theoretical and being a 'how to' book for negotiating" (p. 278). Each of these authors cites the work of Mary Parker Follett as seminal to the development of their work in conflict resolution. Follett's primary contribution was her development of the term "integration." This concept was the inspiration for the term "integrative

⁵ The distinction between settlement and resolution is discussed in "Definitions" under the heading "Negotiations." For a more in-depth discussion of what constitutes a "resolution," refer to Mitchell, 1990.

process,” employed in McKersie and Walton’s theory of negotiation. Follett’s influence is also apparent in Pruitt’s work (Pruitt and Lewis, 1975) and is discussed below. While Walton and McKersie’s is not identical to Pruitt’s work, the similarities allow their work to be grouped together in this discussion. In this segment an overview of the work of each of the two groups is discussed first. Following that is a more focused discussion about some of the specifics found in each work. Included in this section is also a brief discussion of the work of a third group, Fisher and Ury. Fisher and Ury have a more “hands on” approach which is congruent with the theorists’ work.

Pruitt (1981) sets out a theory of strategic choice in which the rationale for mediation is outlined. According to this theory, there are three basic strategies for moving toward an agreement: to concede unilaterally; to engage in competitive behavior, that is, “to seek to gain an advantage for the self at the other’s expense” (Pruitt, 1981, p. 15), also referred to as distributive behavior (Walton and McKersie, 1956); and to collaborate with a third party with the goal of finding a mutually acceptable solution (“coordinative behavior” (Morganthau, 1967; and Pruitt, 1979)). It is within the last strategy that mediation falls.

Walton and McKersie’s theory was first set out in 1965. They theorized that most negotiations can be analyzed by utilizing four subprocesses’ tools and concepts. The four subprocesses identified by the authors are: distributive subprocesses, integrative subprocesses, attitudinal structuring subprocesses, and intraorganizational bargaining. Both sets of theorists credit Follett as the inspiration for their polar concepts of distributive and integrative subprocesses (Walton and McKersie), and contending and cooperating behavior (Pruitt). The practical application of the similarities in the works of these theorists has been articulated in the popular work of Fisher and Ury in their book, Getting to Yes (1981).

Fisher and Ury’s explanation of what actually happens to inhibit resolution of conflict (1981) employs the idea of psychologically and emotionally “moving” disputants to recognize and negotiate in order to

attain one's interests as opposed to negotiating for one's positions. The challenge is that in most bargaining situations, parties battle over positions which they have taken and upon which they persist to focus. In this scenario each party assumes a position most advantageous to him/herself and bargains vehemently in order to get the other party to concede. Not winning potentially results in a loss of face, lack of trust, and lower overall satisfaction. The method of choice according to Fisher and Ury is to

- separate the people from the problem: every negotiator has interests in both the substance and in the relationship
- focus on interests, not positions: one's position is something which is decided upon; one's interests are what caused one to so decide
- invent options for mutual gain
- insist on using objective criteria (1981).

Distributive and integrative bargaining are described as polar yet interdependent processes by McKersie and Walton (1992). Pruitt (1981) describes this polarization as the tension between contending and cooperating. This concept is found repeated by other writers on the topic such as Fisher and Ury. The common thread amongst these writers is the difficulty disputing parties have in resolving the dichotomous choice between a win/win and a win/lose strategy.

There is a long-held philosophy of, and support for, the idea that conflict and its resolution are similar regardless of the specific nature of the conflict (Pruitt, 1995; Bush and Folger, 1994; Kolb, 1994 and 1985; Sandole, 1993; Burton, 1984; Noble Order of the Knights of Labor, Preamble, 1986). In the Commentary to Standard 6.1 of the National Standards for Court-Connected Mediation Programs (Center for Dispute Settlement, 1996) there is a discussion of the necessity, at times, for the consideration of personal characteristics being of greater importance than either professional or educational background. The Commentary also acknowledges that there are times, in complex cases, when specific knowledge may be appropriate for the adequate delivery of service to the parties of the dispute.

There is concern and dissension within the field as to the qualifications and professionalism of the new mediators who are entering in the field (Honeyman, 1995; Sarat, 1994; Davis, 1993). There is a need for a “greater competence by the volunteers and professionals in the business” (Keltner; 1994). Even programs established to separate out the qualified from the rest of the pack often fail to do so. There is an attrition of the body of experienced mediators due to aging. They are not being replaced by those with the same kinds of experience and skills. “The number of competent ad hoc mediators is small compared to the number who would like to do the work or who hold themselves out as mediators” (Zack, 1985).

Training mediators, both professional and volunteer, is also an issue of ongoing concern. Davis (1993) noted that becoming a mediator is a “hot career” of the 1990s. People from all fields and walks of life are attracted to mediation for both good and, undesirable reasons; the field is being “besieged” (Keltner, p. 106). There are those who wish to overcome their own problems, such as a conflict phobia; women who believe it belongs to the feminine culture as a women’s study; and the psychologically needy who crave supplemental satisfaction through helping others. Most important to the field is that these hopefuls get the training that is required to acquire the “solid professional respectability that comes only from thorough and careful selection, training, and performance” (Keltner, p. 107).

Just as there are those who believe that there are qualities and skills required of a mediator that are natural talents and cannot be taught to a person (Honeyman, 1995; Keltner, 1994), there are others who believe that only with copious training can one hope to attain the necessary qualifications to mediate. The hopes of the endorsement and support of the field of mediation hinge on the abilities of those who mediate (McKay, 1990; Zack, 1985; Simkin, 1971).

Within certain areas, especially the labor-management field, mediation training is very rigorous.⁶ The cost of training a mediator is high. Having to adequately train a “journeyman” mediator in one state agency required an investment of approximately \$250,000 over a minimum of three to five years of full-time employment (Honeyman, 1995). Other areas do not put the same emphasis on training, especially for community mediation volunteers (Davis, 1991). The average number of training hours is between 25-55 (Keltner, 1994). The short programs are somewhat inadequate and are not the exemplar. “The time restrictions imposed on a training format of one week or less limit their role to mediation orientation, an introduction to substantive knowledge, and skill refinement. They should not be regarded as comprehensive professional curricula” (Folberg and Taylor, 1984, p. 234). Honeyman exposes the sad truth about the training of mediators when he states that “no amount or type of training or experience seems to guarantee competence as a mediator” (1995, p. 8). Instead of being a relatively inexpensive training program for ersatz “professionals” in mediation, the general and family mediation training courses are in reality “rather a fairly expensive selection device” (Honeyman, 1995, p. 7).

It would be undue not to consider the issue of gender as a grounds for mediator qualifications. The question of the importance of gender (Folger and Jones, 1994; Merry, 1994; O’Barr, 1994; Carnevale, et al., 1989) has been specifically addressed in the literature about mediators, as well as broadly in the communication and popular literature (Campbell, 1993; Grey, 1992; Tannen, 1990). The consensus of the literature is that men and women do communicate differently. They also look for contrary ends to their interactions, placing different importance to issues.

⁶ The Federal Mediation and Conciliation Service’s criteria for selecting new mediators have been that they have approximately seven years of bargaining and negotiation experience in addition to their stringent training programs (Keltner, 1994).

Transformative approach

The concept of ADR was developed to be an alternative to traditional forms of dispute resolution. To understand the transformative approach requires some background into problem solving in the United States' mainstream culture. This society focuses all of its energies, in every aspect of life, upon the concept of individualistic satisfaction. Every individual is deemed to be equally worthy of the pursuit and receipt of this satisfaction. Mutual satisfaction of individuals is the ultimate goal. The problem-solving orientation focuses upon the conflict as a problem in need of alleviation. The way in which to alleviate the problem is by mutually satisfying, to the greatest extent possible, each individual party involved. "It [Individualistic ideology] underlies Western democratic theory and institutions" (Folger and Jones, 1994, p. 13).

Mediation is primarily valued for its ability to satisfy (that is, provide simultaneous satisfaction to) all of the disputants. Adjudication and adversarial processes cannot hope to offer this form of conflict resolution. The proposition is that although mediation is "kinder and gentler," it is still just an improvement on a process, not a process on its own merits (Harrington, 1985). Folger and Jones (1994) found that the cause of the criticisms of mediation was its problem-solving orientation. The mediators see their mandate as one of problem-solving.

Solving problems of unmet or incompatible needs means solving them justly and this requires the kind of formality and rules found only in judicial forums. Unconstrained third-party influence gives rein to third-party biases that inevitably produce disparate treatment, unjust results, and unequal satisfaction. Put differently, Individualist mediators inevitably act as problem solvers, but in doing so their interventions often are unjust thus compromising Individualism itself. (Folger and Jones, 1994, p. 14)

The opportunity thus arises to explore an approach that avoids the inevitable regrettable aspects this ideology has upon mediation (Sarat, 1994). The proposed alternative is a Relational ideology.

Relational ideology begins with the rejection of the underlying premise of Individualism; which is that conflicts are problems that need to be solved. Rather, in relational ideology, conflict is envisioned as an opportunity for human growth and transformation. Two areas, critical to human development, are growth opportunities in the transformative orientation: empowerment and recognition (Bush and Folger, 1994; Folger and Jones, 1994). Mature development of the individual is marked by both of these dimensions working in tandem. The opportunity for this growth is fostered through the transformative orientation in conflictual situations.

Keltner warns intervenors of the perils of “meddling.” The danger of interfering is always a temptation, however; at times the mediators are dealing with deep-rooted, seemingly intractable conflict. They entail great tragedies as people seek and sometimes kill each other in order to fulfill their heart-felt desires. But we should not rush in to fix other people. Distressing as are the bloody fights and wronged peoples, we need to be careful not to exacerbate their problems by meddling, whether we are U.S. government, or church groups, or private individuals. (Kriesberg, 1993, p. 27)

Elements of the transformative process for evaluation

There is very little written about the transformative process of conflict. Its use in mediation practices, as well as its mention in the training literature and published accounts, is very limited.⁷ Folger and Jones (1994), however, have provided what they considered the three key characterization elements in a mediation of a conflict: a micro assessment of the moves of the parties; support of choice-making and deliberation by the parties; and perspective exchange.

The first element, the micro assessment of the moves of the parties, entails a vigilance that may be trying to even to the most seasoned of

⁷ There are a few published accounts of the use of the transformative model (Bush, 1989; Northrup, 1989; Riskin, 1982, 1984).

practitioners. Rather than focusing on the big picture, this element advocates for the examination of every communication for an opportunity to empower and to be empowered. These opportunities may present themselves in substantive or non-substantive communications. It is not so much about that which the party speaks that is important as much as that they have provided the mediator with the occasion to point out the opportunity to empower.

There are important moments in a mediation--turning points. It is at each and every one of these points that the mediators need to seize the opportunity to actively listen and reflect. The opportunity presented is one of deliberation of available options. The mediator's job is to identify and display these opportunities for making choices and giving acknowledgment. Their choices are the basis for their agreement or their impasse. This is the second characterization requirement for the evaluation. Different from a more traditional approach to mediation which focuses upon the choice of the parties to forge their own agreements, transformative mediation treats the parties' choices as central to the entire experience of mediation: process, substantive issues, and relational or identity concerns.

Whereas a problem-solving process would be likely to focus on shaping issues, terms of agreement, and proposals (Sarat, 1994), the transformative process would urge, or even insist, that the parties make their decisions deliberately, that is, to give full consideration to the available information in order to understand options prior to their decision-making.

The third essential element is the giving of equal emphasis to providing opportunities for one party's empowerment to the other party for the purpose of the second party's recognition. The mediators actively pursue the transformation of the interaction to an opportunity to consider recognition. The mediators will meticulously examine each small piece of the opening narrative by the parties for one party to give recognition through the consideration of the other's perspective.

The encouragement of this retelling of past events is an important note to this characterization because of its marked difference from the Individualistic approach. The mediator's typical statement and admonition about being a future-oriented process is mitigated in the transformative approach. This analysis and quest for opportunities of recognition allows the parties to revisit and re-evaluate their perspective of events. The interactions, as they occur in the mediation, become the new basis for the parties' relationship and interaction. While the mediators are reframing, translating, and reinterpreting viewpoints and statements, the parties are being asked to recognize the other party's perspective. Both the substantive and non-substantive issues are permissible fodder for the process. Typically, written transformative agreements may "include explicit statements of misunderstandings that were alleviated by the process, alternative views of the other that were developed, or 'news' about the other that was not known before the process began" (Folger and Jones, 1994, pp. 18-19).

Systems approach

Wall and Lynn (1993) present their version of the systems approach, a "mediation framework," which proposes the parties' interactions as inputs and their satisfaction and settlement as the outcomes. The throughput is said to be the decision to mediate, and the techniques and strategies used. Wall and Lynn also discuss the mitigating factors of acceptability of the techniques, the parties' commitment to mediation, and the intensity of the dispute. These would be the environmental elements.

Systems impact on mediation

In a mediation the inputs include the clients, intake information, and training. On the output side the boundary spanning for a CDRC includes marketing to new arenas, lobbying, and completed cases. In mediation the output consists of client satisfaction, mediator satisfaction,

agreements, and referrals to other organizations. (Refer to Figures 2, 3, and 4.)

Summary

Chapter II was a review of the literature of the general systems framework of the structure, organization, and processes of CDRCs. Within the context of this chapter was a discussion of the organizational system, structure and contextual dimensions of the CDRCs and their history, and the theory and processes of conflict, conflict resolution and mediation. The general systems framework was used to explain the organization, structure, and activities of the CDRCs. Each of three levels, macro, meso, and micro was discussed. The macro level provides an overview of the resolution process, past and present, of the resolution of conflict. The meso level was a description of the institutions that provide mediation services. The micro level is a discussion of the types of mediation programs and their various goals. The discussion of the structural and contextual impacts of the organizational dimensions on CDRCs generally and mediation, specifically, are also in this chapter.

A discussion about the state of mediation and conflict resolution theory is surveyed. Although there is a well developed body of conflict theory, the theory of conflict resolution is still under development. A review of several of the mediation models are included in the chapter.

The next chapter is a discussion of the methodology of the study. The design of the study and the research plan are explored in an effort to thoroughly explain the rationale for and the means by which the research was conducted.

CHAPTER III

METHODOLOGY

Design of the Study

As was stated in Chapter II, this dissertation employs a process analysis of the system of CDRCs and mediation. Process analysis is a qualitative methodology. A rationale for the use of a qualitative methodology is reviewed at the beginning of this chapter.

The assets of the alternative [qualitative] paradigm need to be stressed and the shortcomings of the dominant [quantitative] paradigm need to be seriously examined for the majority of evaluation researchers seem to be oblivious of the assets of the former, and euphoric about the techniques of the latter. (Patton, 1975, p. 10)

This alternate paradigm (the dominant paradigm being quantitative research methodology) relies upon field techniques from outside the natural science tradition, that is, anthropological. Amongst these techniques is in-depth interviewing (Patton, 1975, p. 8). Hubert Blumer (1969, p. 47) said in his opposition to quantitative methodology, "This opposition [to quantitative methodology] needs to be stressed in the hope of releasing social scientists from unwitting captivity to a format of inquiry that is taken for granted as the naturally proper way in which to conduct scientific inquiry..."

The qualitative design is most specifically suited for inquiries of exploration, discovery, and inductive logic. Rather than trying to predict which variables are important in advance of the collection of data, the researcher allows the investigation to help guide the way. (Locke, et al., 1987) "...It is crucial for validity--and consequently for reliability--to try to picture the empirical social world as it actually exists to those under investigation, rather than as the researcher imagines it to be" (Filstead,

1970, p. 4). (More on this topic is found in the segment on “validity and Reliability” in this chapter.)

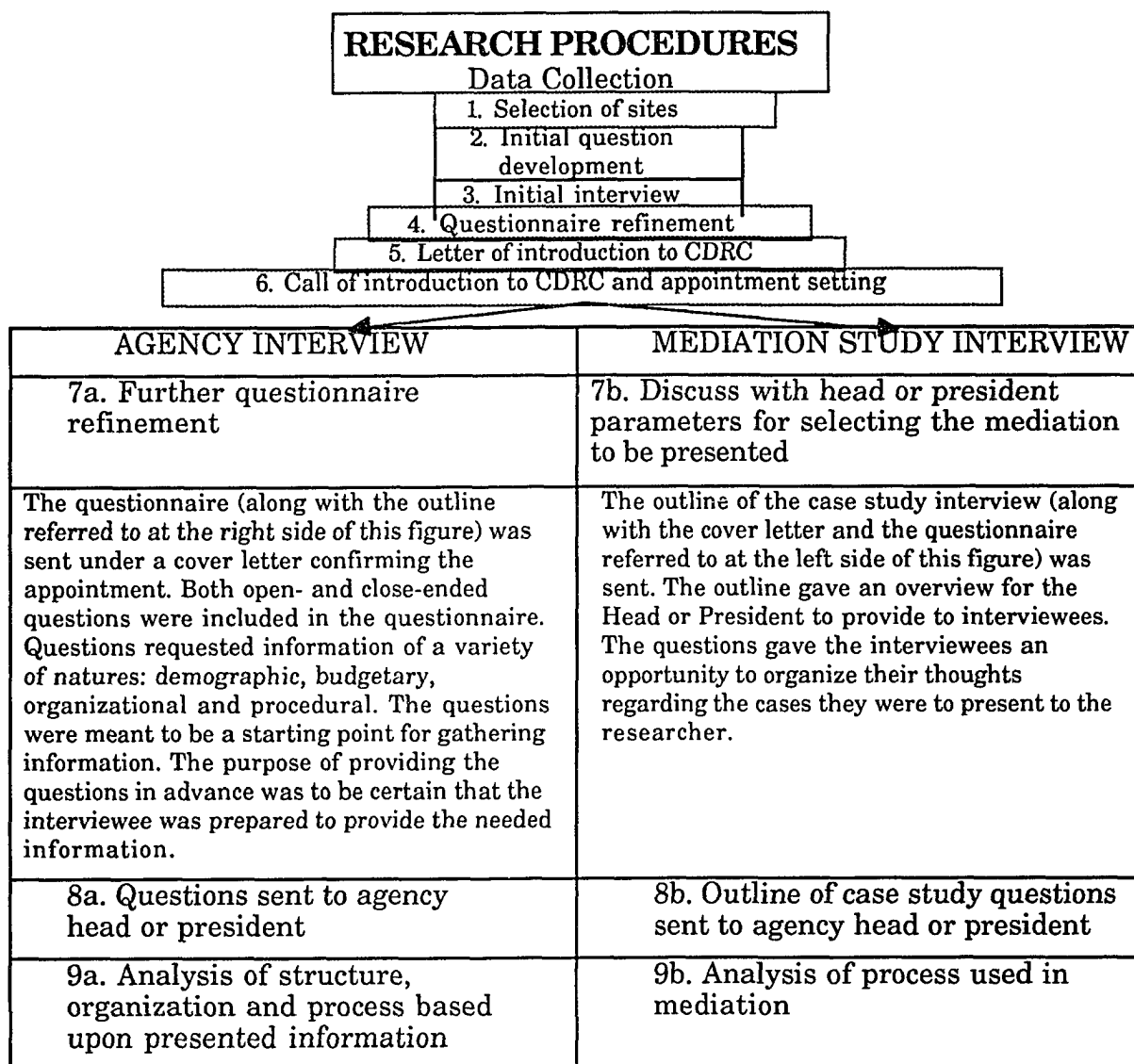
Patton discusses the propriety of the qualitative method of inquiry to process studies and explains that the requirement of detailed description in the studying of process is “highly appropriate” to the methodology. “A focus on process is a focus on how something happens rather than on the outcomes or results obtained” (Patton, 1990, p. 94). The advantage of the qualitative methodology is the plethora of detailed information which it can provide. Another rationale for the use of qualitative methods specifically in this context is that there are no reliable, valid, and acceptable quantitative measures for these mediations with regard to the implementation of theory based treatment. Due to the very nature of social processes, that is, complex and interdependent, it is difficult to represent these processes in a unidimensional qualitative scale or with the detail that is important to its adequate description (Patton, 1990).

Research Itinerary

Initiating the research

Each of the CDRCs was contacted in order to ask for their support and participation in the research (refer to Figure 10). The initial contact was done by mail with follow-up phone calls to affirm participation, assuage any concerns of confidentiality or professional credentials,⁸ and to set appointments. All appointments were confirmed by mail when information was sent to the CDRC for the interview. Copies of all letters of correspondence to the CDRCs are included in the Appendix 4.

⁸ Some of the CDRC leadership may not have been familiar with the researcher or her credentials and may have had concerns regarding the propriety of discussing confidential case materials.

Figure 10

Questionnaire development

The questionnaire was developed based upon the requirements of the systems analysis. Questions regarding inputs, outputs, throughputs and environmental conditions were included. Attention was given to organizational structural and contextual dimensions to be certain that questions regarding these areas were included. The questionnaire was initially tested at one site. There was additional refinement of the instrument before it was sent out to the rest of the CDRCs. The questionnaire was sent with a cover letter to each CDRC. The purpose of this step was to give the interviewee an opportunity to organize the materials and information needed in order to answer the questions. In addition, the ongoing correspondence and contact was to lend an air of professionalism to the study and comfort with the researcher in order to assuage hesitations the interviewees might have about the researcher. This strategy was apparently helpful and very effective.

Agency and case study interviews

The data were collected using an open-ended interview process for both case studies and agency interviews. McCracken indicates that "The...interview is one of the most powerful methods in the qualitative armory. For certain descriptive and analytic purposes, no instrument of inquiry is more revealing" (1988, p. 9). In order to assure generalizability of the analysis, each of the cases under scrutiny was selected from a different CDRC. This method was chosen for its potential to increase the reliability and the validity of the analysis. Whenever there was aberrant, inconsistent, or potentially spurious information discovered in the analysis of the data, follow-up interviews were done, either in-person or by telephone to confirm and either explain or qualify the data.

Additionally, the cases were chosen to be as diverse as possible for the same reasons. This diversity of the sample was an attempt to control for the

potential variables of local policy/philosophy applications and the background and training of the mediators. It should be noted, however, that all of the CDRCs, as a part of the Coalition, have many similarities which may restrict the generalizability to the practice of mediation in other settings. As each of these centers subscribes to the principles, practices and ethics for the certification of mediators by the Supreme Court of Virginia, this variable was not considered of potential significance. (For a further discussion on this topic refer to the segment on "Case Study").

In order to choose the nine cases, an initial interview was done by the researcher with the executive director of each CDRC. This step was done by telephone and followed by confirming correspondence. In the case of a CDRC without a director, the president of the Board of Directors of the CDRC was interviewed. An assessment of the caseload of the CDRC was done and the director was asked to provide a group of cases which fit into at least one of the following categories. The cases had to have been mediated by at least one certified mediator and one other mediator and had to have been completed, although not necessarily settled:

- a cutting edge area for mediation
- cases performed most frequently
- cases resolved most successfully
- an outstanding case

In a set of second interviews, the researcher compiled a list of cases and then chose one case from each CDRC. Greatest emphasis was put on creating the most diversity possible so that the body of cases would represent a broad selection.

Interviews were conducted with one of the mediators (in one case the observer reported) of each case.⁹ An in-depth review of the case was performed in person and audio-taped. The mediator was given the opportunity to relate the development and history of the case from an

⁹ Logistics prohibited interviewing both of the mediators in the same interview.

objective and subjective standpoint. The researcher also used a standard set of questions to further develop each case. After asking for permission to interrupt the interviewee's answers, the researcher asked clarifying and probing questions throughout the interview in order to elucidate the case development.

Research Plan

Patton describes this type of inquiry as a process evaluation. The purpose in such an inquiry is to elucidate and understand the program or organization's internal dynamics.

Process data permit judgments to be made about the extent to which the program or organization is operating the way it is supposed to be operating, revealing areas in which relationships can be improved as well as highlighting strengths....[They are] also useful in permitting people not intimately involved in a program...to understand how a program operates. (Patton, 1990, p. 95)

To understand the unique dynamics of the process it is preferential to study it without a predetermined expectation as to its strengths and weaknesses. In doing so the perceptions emerge from the findings rather than from preconceived notions of the researcher. "An inductive, naturalistic approach can be particularly appropriate for the conduct of process studies and evaluations." (Patton, 1990 p. 96)

Each of the nine CDRCs was studied through the use of an on-site, in-depth agency interview conducted by the researcher and audio-taped. The questionnaire served as a starting point for the information transfer. and was investigated through the use of both open- and close-ended questions. The questions were asked in interviews with either the executive director or the president of each of the CDRCs. The goal of the interviews was to determine the demographics, structure, organization, processes, focus and direction of the center. The objective information from all of the

interviews was compiled into tabular form in order to draw a comparative analysis of the body of the CDRC.

In each of the nine CDRCs the researcher conducted a case study of a completed mediation done under the auspices of the particular center. Every case was scrutinized and analyzed to determine if and how well it fit select mediation/negotiation processes.

The use of open-ended questions permits the researcher to “see” the data in a way that accurately reflects the reality of respondents (Patton, 1990). In addition, an informal analysis of the documentary and published materials such as annual reports, newsletters, fiscal reports and caseload data was conducted. Rigor with regard to these extra materials was not possible due to the wide diversity of their existence and availability.

While conducting the agency interviews, the researcher also collected the case studies as a collateral step. One case study was taken from each of the CDRCs.¹⁰ The executive directors or presidents were asked to choose a case which they felt was particularly interesting or distinctive to their center. (The criteria are provided in the segment on “case studies.”) An in-depth interview was conducted on each of the cases.¹¹ An outline for the interview was sent to each executive director or president before the interview; in turn, they provided the outline to the case presenter. The purpose of this compilation is to understand how mediation is conducted in each of the CDRCs.

Each case was summarized and analyzed. The analysis’ purpose is two-fold: first, to gain an understanding of the process used, and second, to determine if the CDRC is conducting transformative mediation or a

¹⁰ Two cases were eliminated from the dissertation. One of the CDRCs would not provide any case information because of a standing policy on the matter. Another CDRC’s case was thrown out of the analysis because the case details, in the author’s opinion, could not be disguised adequately to protect the confidentiality of the disputants.

¹¹ Complete confidentiality was guaranteed to all CDRC for their clients and cases; therefore, names, gender, and localities have been changed in order to protect identities.

conventional process of mediation. The information is available in tabular form in Figures 6, 7, 8, 9, 10, 11, and 12.

Setting

The setting of this research was the nine CDRCs of the Commonwealth. These centers carry a common identity through a coalition of CDRCs. The location of the CDRCs is shown on the map of Virginia. A complete list is provided in the of each of the CDRCs and their locations.

Interviews

As stated in the research plan, interviews were conducted by the researcher at each of the nine members of the Coalition of Community Mediation Centers.¹² These interviews were structured with a consistent question base that was expanded as necessary to reflect the individual Center's characteristics, structure and nature. Data was collected during the period of June through August, 1994, from all of the CDRCs except Richmond and Norfolk. The Richmond and Norfolk data reflects the same period as the other CDRCs.

Data were collected from both the mediator and the executive director about the practice of mediation in each CDRC. This was a means of checking the consistency of individuals involved in the activities of the CDRC from different points of view. As Patton indicates, the use of different sources can lead to conflicting information. This is viewed by Patton as a strength rather than a weakness of the research process. Information was

¹² The office of the Executive Secretary, Supreme Court of Virginia lists a tenth CDRC. Extensive efforts were made by phone and registered mail to contact this CDRC to no avail. All tertiary information confirmed that the Lynchburg CDRC was effectively defunct at the time of the research. Staunton is planning to terminate operations in 1996 due to a lack of funds.

recorded and accepted at face value from the interviewee. When an apparent paradox in the information occurred, the interviewee was asked directly to clear the paradox.

Case Study

According to Yin (1993), explains that the tool being utilized, case studies (each CDRC being a case), by definition demands an intensive quantity of data about a small number of units of analysis, (the cases). They are employed in circumstances where the inquiry topics are of such complexity that the phenomena of interest in the inquiry are indistinguishable or not readily distinguishable from their context. (Refer to Chapter II, “Contextual Dimensions” for a discussion of context.) Therefore, data about both the phenomena and the context are needed. He also defines a case study as an “empirical inquiry that...investigates a contemporary phenomenon within its real-life context...[and where] multiple sources of evidence are used” (Yin, 1983, p. 23).

Yin notes that, when seeking to make generalizations from either single or multiple-case studies, these generalizations must be tailored to theory rather than to a population. The goal is to check on the usefulness of a theory through the method of the case study. This is a particularly appropriate approach in this study since one of the purposes of the study is to relate the theory to the mediation process.

Seven separate mediation cases, one from each of seven of the nine CDRCs, were reviewed with the mediator of the case. An analysis of each case was performed to determine if, and to what extent, the case conformed with transformative mediation practice. The process used to evaluate the cases was discussed in the review of the literature, Chapter II. Folger and Jones (1994) developed the three critical characteristics used as criteria for this evaluation. Each case was first analyzed using Bush and Folger's (1994) methodology. Each case was broken down into a series of significant “moves” or steps. Each of the steps was evaluated against the concepts of

transformative mediation and rated as either transformative or non-transformative. A monologue follows each tabular evaluation of the moves using the three key criteria of Folger and Jones (1994). Following that, overall conclusions of the nature of the case are made.

To insure the accuracy of the responses, only CDRC executive directors were interviewed for the demographic information (except in the case of the CDRC which had no executive director). In the interviews for the in-depth mediation studies the actual lead mediator or mentor mediator of the case was interviewed (if there was such a designated or tacitly established position).

Validity and Reliability

One of the problems besetting the use of case study analysis specifically, and qualitative investigations in general, is the issue of establishing validity and reliability (LeCompte and Goetz, 1982; Kirk and Miller, 1986).

Triangulation, the first type of qualitative research method and a lauded process of improving validity and reliability for general research, is explored in great detail by Michael Quinn Patton. The triangulation of sources was used in this research, that is, an examination of the consistency, within differing data sources, of the same method. Triangulation of qualitative data sources stays within the limits of qualitative studies.

Using different theoretical perspectives is the mainstay of the second type of triangulation being used: "there are always multiple theoretical perspectives that can be brought to bear on substantive issues" (Patton, 1990, p. 470). This approach can be accomplished through many different theoretical paradigms. In this study the different theories used to explain what actually happened in the mediation will help to decrease the bias through triangulation.

As to reliability, Stake and Easley (1982) state that although there may be multiple realities as perceived by each individual viewing the information presented, and these different individuals may well attach different meanings to the same thing, “we are not willing to claim that in order for a report to be valid the observations reported need to be those another observer would have reported” (C: 28). “It seems less important to ask if these case studies met scientific standards than to ask if they added to understanding. Neither one depends on the other” (C:56).

As to the question of validity, there are three types of validity that are of concern: construct validity, internal validity, and external validity. Construct validity is concerned with the instruments and measure used in the study. The important issue of this concern is if these forms of measurement accurately operationalize the constructs being examined. To increase construct validity, multiple measures may be employed; that is, the use of multiple case studies in multiple sites. (Yin, 1984/1989, p. 23). Internal validity can be achieved, according to Yin, “through the specification of the units of analysis, the development of *a priori* rival theories, and the collection and analysis of data to test these rivals” (1993, p. 40). External validity is achieved “through the specification of theoretical relationships, from which generalizations can then be made” (Yin, 1993, p. 40).

Summary

In this chapter the methodology of the research was discussed in detail. The design of the study was reviewed along with the research plan. The research itinerary was discussed, including details about the initiation of the research, development of the questionnaire, and the manner in which the agency and case study interviews were conducted were discussed. The details of the setting, the interviews, the case studies and the issues of validity and reliability were all considered in this chapter.

In the next chapter, the results and analysis of the research are presented. The chapter imparts the summary tables representing an overview of the results of the research. The information is also presented in more detailed form in Appendices 1 and 2.

CHAPTER IV

RESULTS

Introduction

Overview

This chapter presents information about the organization, structure, and activities of the CDRCs in Virginia. Three separate groups of tables are presented: the first includes the results of each of the nine CDRCs' agency interview (found in Appendix 1); the second, the overview of each category of questions based upon the survey responses received from each CDRC (found in Appendix 2), and the third group includes several overview tables which highlight selective information. Analyses of the in-depth mediation case studies are also presented.

The case studies consist of a group of seven monologues inspired by the case study interviews.¹³ The identifying information about these cases has been altered or expunged in order to assure the confidentiality of the disputing parties.

Case studies are presented in three parts. First, there is a monologue of the mediation as it was retrospectively reported by the mediator. Second, there is an analysis of the moves of the mediation in chart format. This is a step-by-step description of how the mediation proceeded. Following the chart of the moves is the analysis of the case. Each of the cases was subjected to a test based upon the criteria of Folger and Jones (1994) which are explained in Chapter II. (Refer to "Elements of the Transformative Model for Evaluation.") Based upon this analysis, the cases were rated as either transformative, non-transformative, or undetermined.

¹³ As mentioned in Chapter III, one case's presentation would have precluded anonymity; and another CDRC has a definitive policy against disclosing any case information for research purposes.

The analysis of the agency interview data found that the CDRCs are grouped into two distinct categories based upon budget size. Two other measures seem to follow in tandem in an identical grouping pattern. First, the number of mediations performed is directly related to whether or not a CDRC falls into the large or small budget category. Second, training, as a significant source of income, is directly related to the budget categories. Within this format the CDRC information is presented by budget group in descending order and divided into small-budget CDRCs and large-budget CDRCs (heretofore referred to as small CDRCs and large CDRCs, respectively).

The last group of information included is an analysis of a combination of the other two groups of materials (the case studies and the agency interviews). The results of the interviews (both agency and mediated cases) were analyzed to determine the structure, organization, and activities of the CDRCs. Most of the analysis of the activities of the CDRCs are drawn from the monologues of the mediated cases. Information from the agency interview was used to supplement and/or verify the monologues. Additionally, an informal review of the written materials provided by the CDRC was also done. Last, the on-site visit to the CDRCs provided valuable insight to the reported information.

This chapter includes 12 overview tables. Much of this material is self-explanatory and, therefore, will be presented only in its tabular form. The rest of the chapter is devoted to a review and analysis of the information with regard to the review of the literature and theory presented in Chapter II.

Focus of Analysis

Organization

The first section of the agency interview dealt with the organization itself (refer to **Table 1**). All of the CDRCs in the Commonwealth are

classified for tax purposes as 501 (c)(3) (non-profit), which makes them exempt from many forms of taxation. The reliance each CDRC has/had on contributions and grants, such as the IOLTA grants from the Virginia Law Foundation, depends upon its 501 (c)(3) classification.¹⁴ The CDRCs need to be classified as tax-exempt in order to be economically viable.

¹⁴ Many donor organizations require an applicant for funds to have a 501 (c)(3) status. In order for donor organizations to contribute funds and declare the contributions as charitable, the recipient must be a 501 (c)(3) status organization. Any such gift to a non-501 (c)(3) organization would probably not be tax-deductable and would, therefore, be scrutinized as a gift, and potentially cost the donor much more than the face value of the donation because of the subsequent taxation impact.

Table 1

Organization Summary

| City | Inc. | Founded | Parent | Branch | Environ | Comput* |
|-------------|------|-----------|---------|--------|------------------|----------------|
| Harrison | yes | 1982 | not now | yes | rur/univ | 6, w.p. |
| Fairfax | yes | 1989 | ICAR | yes | urban | w.p, d.b |
| Norfolk | yes | 1989 | BBB | court | urban | w.p,d.b. |
| Richmond | yes | 1987 | BBB | court | urban | w.p,d.b. |
| Total Lg. | 4 | '82-'89 | 3 yes | 4 | 3 urb/un | all |
| Charlottes | no | 1984 | yes | yes | urb/univ | w.p. |
| Fredrick | yes | 1989 | no | yes | rural | w.p,d.b. |
| Roanoke | yes | 1988 | no | court | sm urb | personal |
| Warren | yes | 1991/1993 | no | no | rural | w.p,d.b. |
| Staunton | yes | 1990 | no | yes | rur/univ | w.p,d.b |
| Total Sm | 4 | '84-'91 | 1 yes | 4 | 1 urb/un | all |
| Grand Total | 8 | '82-'91 | 5 no | 8 | 4 urban/ univ | use limited |

* d.b. is the abbreviation for data base; w.p. is the abbreviation for word processing

Noteworthy also is the fact that, of all of the CDRCs, almost all of the large CDRCs and none of the small CDRCs, have/had a parent organization. Three of the four large CDRCs are located in urban environments (the fourth is in a university setting) and are very dissimilar from the small CDRCs. (Only one of the small CDRCs is located in an urban environment.) It might be speculated that the urban environment could have created conditions that are more open to cutting edge innovations (i.e., mediation) than the environment of rural areas. Another geographic quality that may have fostered the development of the CDRCs may be found in the generalization that those who live in cities are used to treating and being treated with anonymity. The logical mode of dispute resolution between strangers is an adversarial one. In smaller areas residents frequently know one another and get along by going along. This could speculatively mean that the less-urban environment would have proportionately fewer conflictual matters than in cities, and that the conflicts which do occur would be more prone to resolution without, or with fewer, formal intervention(s).

All the CDRCs in the Commonwealth are independently incorporated. Unlike the others, Charlottesville is only incorporated by virtue of its parent, Focus (an umbrella, 501 (c)(3) organization). Charlottesville stands out with regard to its date of incorporation, environment, and genesis. In the case of each of these measures Charlottesville seems to be more like the large CDRCs. Speculation on this observation leads to the hypothesis that were it not for the protective organizational cocoon of Focus which has insulated Charlottesville from the economic realities of the "real world," perhaps Charlottesville would have gone down the same funding path as the large CDRCs. Focus provides services and services-in-kind that are economically and organizationally advantageous to the CDRC. It is conceivable that Charlottesville, without the help of Focus, would have also moved to the ranks of the large CDRCs in some of their common characteristics.

Mediator training for certification is the most important source of funding for the large centers of Richmond, Harrisonburg, and Norfolk.¹⁵ The deviation -amplifying loop of the large budget requires a continually-inflating supporting organization, which in turn requires a larger staff; requires an expanding facility, and thus, finally a larger budget. The larger budget can also mean that the affected CDRCs may lose their community, and even their service orientation to become either system-oriented or evolve into some new type of organization. The goal of this newly evolved organization is to train those individuals and organizations financially able to afford the price.

The large CDRCs are also generally older than the small CDRCs. Again, this would seem to fit with the concept of the process approach to organizations discussed in Chapter II. The earlier the CDRC was established, the longer it has had to learn, adjust, and adapt to the realities of the economic world as an open system. The inputs available in the environment need to be recognized and utilized by the CDRC. Without the perspective and the expertise, which may largely come with experience and longevity, these potential inputs may never be utilized by the CDRCs.

It is interesting to note that the large CDRCs are located in a major metropolitan area (Fairfax, Norfolk, and Richmond) or a college town (Harrisonburg). Again, referring to the literature review, this movement has always relied upon thinking individuals: those who are on the cutting edge, concerned with quality-of-life issues, as well as those who are generally more sophisticated, socially aware, and likely to challenge the system. These type of individuals are more likely to gravitate toward cities and centers of higher learning because of the amenities they offer.

¹⁵ Three of the four large CDRCs identified training as their most important source of funding; Fairfax, the fourth large CDRC, identified training as one of the most important sources of their income. (Refer to Table 14, Funding Summary.) Charlottesville has not developed the economic reliance upon training, that the large CDRCs have.

Funding

Table 2 presents information on the various sources of funding of the CDRCs and the CDRCs' description of which of these sources are significant. Roanoke and Charlottesville indicated two sources as being equally, or nearly equally, important. All of the other CDRCs indicated only the most significant source of funding in response to the question.

Table 2

Funding Summary*

| City | Gov't | Parent | Mediat | Fundr | IOLTA | Train | Court | Grants |
|----------------|-------|--------|--------|-------|----------------|-------|-------|--------|
| Harrison | | | √ | √ | | 50%* | √ | √ |
| Fairfax | | | √ | √ | √ | √ | √* | |
| Norfolk | | √ | √ | √ | | √* | √ | |
| Richmond | | 27% | √ | | | √* | √ | |
| Av Large | | | √ | √ | | √* | √ | |
| Total Lg. | 0 | 2 | 4 | 3 | 1 | 4* | 4 | 1 |
| Charlottes | | √* | | √ | √* | | √ | 33% |
| Fredrick | 34%* | | 11% | | | 25% | 27% | |
| Roanoke | city | | 35%* | 15% | | √ | 35%* | |
| Warrenton | | | √ | √ | √* | | √ | √ |
| Staunton | 5% | | √ | 10% | approx 50%* | | √ | √ |
| Av Small | √ | | √ | √ | √* | | √ | √ |
| Total Sm | 3 | 1 | 4 | 4 | 3* | 2 | 5 | 3 |
| Average | | | √ | √ | | √ | √ | |
| Grand Total | 3 | 3 | 8 | 7 | 4 | 6 | 9 | 4 |

* most significant

Three of the four large CDRCs reported that training was their most significant source of funding. One large CDRC does not cite training as its most significant source of income (Fairfax). Fairfax it is also the only large CDRC which was still receiving IOLTA money at the time of the survey. None of the small CDRCs reported training as their most significant source of funding. None of the large CDRCs were receiving any funding from local governments at the time of the research. Three of the five small CDRCs receive supplementary funds from their local governments. It may be that it is harder for large CDRCs to convince a local government to subsidize their activities when the services they offer do not directly benefit the underserved portions of the community.

Although none of the small CDRCs cite training as their most significant source of income, four of the five list both mediation fees and court cases as large sources of income. Once again, this substantiates the concept that true smaller, younger CDRCs have greater closeness to their original emphasis and impetus. One could speculate that the small CDRCs are less concerned with financial issues than are the large CDRCs, and that the small CDRCs can therefore focus more on the business of mediation.

As the literature indicates, the CDRCs were born partially out of a disdain for real or perceived injustice; a need for personal control of outcomes and empowerment; and, a desire for a system of expeditious justice (Honeyman, 1995; Bush and Folger, 1994; ABA, 1993; Rauch, 1992; Olson, 1991; Nonet and Selznick, 1978; Pound, 1906). As the CDRCs grows, the commitment, or at least attention, to community needs wanes. Many of the CDRCs drift away from the explicit (refer to the mission statements of Harrisonburg and Norfolk) or implicit commitment to, as Merry said, "restoring the peace" (1982).

ADR was created to offer relief to those in dispute in a more accessible, productive, collaborative, and cooperative environment (Bush and Folger, 1994; Fitzpatrick, 1993; Merry and Milner, 1993). Choice is the

cornerstone of ADR. Court-ordered evaluation for mediation (cases in which the judge orders a case to a court-appointed mediator to be evaluated for mediation) fall somewhat short of the goals of those who envisioned and gave birth to the concept of non-profit mediation organizations established for, and within, the communities (Kolb, 1994; Merry and Milner, 1993; Harrington, 1985).

The activity of training, engaged in primarily by the large CDRCs, creates a deviation-amplifying funding loop of activity which impacts on the inputs, throughputs, and outputs of the organization. Both structural and contextual dimensions also change with a focus on training: the amount of formalization increases dramatically, the hierarchy of authority expands, the specialization probably increases, the standardization becomes more substantial, and complexity increases. With these changes come many of the changes in the contextual dimensions. True to the process model, the organization continues to be affected in the loop scenario.

The profile of the person who typically trains as a mediator is the well-educated, middle-aged person who is generally near the end of a long and successful career, one who is looking for a meaningful way to contribute something to the community (and perhaps pick up a bit of income on the side). Those for whom the community centers were originally established; the disadvantaged, the underserved, the undereducated, typically cannot avail themselves of the training. Unfortunately, the actual financial cost to the trainee precludes any but the financially comfortable from becoming mediators. Such costs include mediation training and mentoring (typically around \$200-\$600), the opportunity costs (trainings frequently impinge on the work day), and the times that mediations are typically scheduled with regard to being mentored become a selection process by which those who do not have the backing of an organization or are in a financially comfortable situation cannot afford the entry costs of being trained as a mediator. Unless an organization is backed by an organization, he must be financially independent in order to take up such an opportunity. Norfolk and Roanoke

reflected on the problem in their inability to do outreach to those in the communities they would like to serve. These two CDRCs are used as examples because they have chosen different paths in the face of this problem. Norfolk is underwriting its mediation by training all comers. The revenue is the organization's funding engine. Roanoke, on the other hand, has chosen to use community activism as its path. Mediation is no longer the mission of the organization. Instead, Roanoke is assisting the community and its services with a different approach to problem solving. Both of these CDRCs, as well as most of the other CDRCs, expressed tremendous frustration at the limits of their time and effort and the magnitude of the task.

Both the large and small CDRCs predominantly identified fundraising as an important source of funding. These findings fit with the systems approach proposed in Chapter II. The large CDRCs no longer receive the substantial IOLTA grants (refer to Table 2, Funding Summary). These grant awards are generally limited to a maximum term of three years. The intent is for the IOLTA funds to be used as seed money for the CDRC. These findings are consistent with the results discussed in the section on organizations referring to the financial continuity and viability realities of a focus on conducting trainings as opposed to doing mediation.

Court contracts, granted by the Supreme Court of the Commonwealth of Virginia, are a major source of mediation funding for many CDRCs. When financial costs exceed benefits, a loss is incurred. For example, the cost of performing a mediation in a small CDRC varies from \$317 (Fredricksburg) to \$688 (Charlottesville) per mediation. In these CDRCs most of the case work is court ordered. The Supreme Court will authorize a payment of \$80 (for up to four hours) for a general district court case and \$175 (for up to eight hours) for a domestic case.¹⁶ The court contracts allow the CDRCs to give the communities the hope for what Potapchuk (1990) called for, a legitimization of the disenfranchised

¹⁶ It is possible to invoice the Supreme Court for an additional case if the time goes over these maximums.

segments of the population. Without the contracts, however, the CDRCs cannot possibly hope to continue their role as helping those needy groups without being confederated and joining and the ranks of the traditional system (Harrington, 1985). CDRCs like Fredricksburg and Norfolk that reported 100% growth in the survey have not continued to realize that growth because the court contracts have not been reliable in increasing to meet the mediation needs of the communities. Co-optation, followed by absorption by the legal system, is both the fear and the warning of the entire ADR movement (Bush and Folger, 1994; Keltner, 1994; Fitzpatrick, 1993). Once again the CDRCs are compelled to walk the thin line between fulfilling their mission by providing a service, and viability.

The more standard measures of a business' success include large staff, budget, and volume (number of mediations); however, these standards are antithetical to the goals of ADR. While it is a fact that the large CDRCs do perform more mediations than the small CDRCs, it would seem that they increasingly rely upon the money from training in order to do so (Table 2). In every instance the directors of the large CDRCs expressed concern and a strong focus on the necessity to insure the financial viability of their organization. Thus, because of an economic necessity, they shift their focus to viability.¹⁷ Viability is in large part a by-product of economic independence. According to CDRC leaders, viability is strengthened through the lucrative business of providing trainings to offset the deficits created through providing mediation services. Economic viability emerges throughout the findings as the most important and compelling concern of the CDRCs. One way to achieve economic independence is to have full-value remunerations for rendered services kept at their highest possible levels. In other words, if the consumer does not pay the cost of a mediation, can the CDRC afford to take the case? Then, again, if the consumer has to pay a full-value remuneration for mediation and the cost of the mediation is no

¹⁷ For further discussion of the cost of providing mediation services see "Real costs of mediated cases."

less than \$400, how many people in the community will be able to afford the services of the CDRC?

Community service is a building block of the *community* dispute resolution services; it is their heritage. Harrisonburg is the only large CDRC that includes a community service declaration in their mission statement (Table 3 and Appendix 1 and 2). Of the small CDRCs only one, Fredricksburg, absolutely does not include a community service declaration in its mission statement.

Table 3

Transformative, Peace, and Community Service Initiatives in
Mission Statements

| City | Transformative Statement | Peace Statement | Community Service | Agreement Rate |
|-----------------|-----------------------------|--------------------|----------------------|-------------------|
| Harrisonburg | yes | yes | yes | 90+% |
| Fairfax | no | no | no | 66% |
| Norfolk | yes | yes | no | 85-90% |
| Richmond | no | no | no | 85-90% |
| Large Total | 2 yes | 2 yes | 1 yes | - |
| Charlottesville | yes | no | yes | 90% |
| Fredricksburg | yes | ? | no | 75% |
| Roanoke | yes | no | perhaps | 75% |
| Warrenton | no | no | no | 80-85% |
| Staunton | no | yes | yes | 75% |
| Small Total | 3 yes | 0 yes | 3+ yes | |
| Grand Total | 5 yes | 2 yes | 4+ yes | |

Competition on the part of private mediators is becoming a growing issue due to their increasing numbers and their expectations of using mediation as an income-producing enterprise. The private providers compete for opportunities, on a for-profit basis, that the CDRCs want to be able to provide to the entire community on a not-for-profit basis. By siphoning off some of the most lucrative work from the CDRCs (such as low expense/high yield general and family mediation trainings and mentoring), they are also effectively depriving the CDRCs of the opportunity to do *pro bono* work.¹⁸ *Ergo*, some of the directors of the CDRCs argue that private providers are “robbing” the community of a valuable asset in terms of services offered. In Norfolk, for example, private mediation groups are vying for, and winning, court contracts and training opportunities. This is a source of consternation for the large CDRCs.

Not surprisingly, of the small CDRCs, the three smallest (Roanoke, Staunton, and Warrenton) at the time of the survey did not compete with private mediators. These CDRCs cited the lack of cost effectiveness of the court contract work as the probable cause for lack of competition. The small CDRCs have very few cases that are not court contracted. Both Charlottesville and Fredricksburg compete with private mediators; Fredricksburg, however, reported that this competition “is not a problem, nor was it problematic.”

When a mediation costs up to \$680, can the community afford the luxury of inhibiting competition from by private providers? The response of the large CDRCs has been to compete with the private providers on “their own turf,”--to abandon, or at least defocus the community aspect of ADR, and become “lean and mean.” As mentioned above, Harrisonburg is the exemplar of this phenomenon. It offers less than 9% more mediations than its next largest competitor, but is heavily marketing its trainings. The emphasis on training has led to a heavy staff commitment to support the training work, and thus, a much larger total budget (see Tables 3, 4, 5, and

¹⁸ The paid work helps to cover the expenses of the *pro bono* work.

6). It is easy to understand why the CDRCs are uncomfortable with their competition--the private mediator. The impact of this competition may be that there is a reduction of services to the community and of mediation services to those who cannot afford to pay something closer to the "real" price.

Table 4

Real Costs to CDRCs of Mediated Cases¹⁹

| City | Budget | # Mediat. | Budget/ Mediation | Agreement Rate |
|--------------------|-------------------------------|-----------|----------------------|-------------------|
| Harrisonburg | \$282,200 | 415 | \$680 | 90+% |
| Fairfax | \$171,040 | 382 | \$448 | 66% |
| Norfolk | \$120,965 | 250 | \$484 | 85-90% |
| Richmond | \$120,000 | 262 | \$458 | 85-90% |
| Large mean | \$146,551 | 327 | \$367 | - |
| Large distribution | \$62,000 | 165 | \$222 | - |
| Variance | 42% | 50% | 60% | - |
| Charlottesville | \$48,140 | 70 | \$688 | 90% |
| Fredricks | \$37,745 | 119 | \$317 | 75% |
| Roanoke | \$32,600 | 99 | \$329 | 75% |
| Warrenton | \$20,923 | 35 | \$580 | 80-85% |
| Staunton | approx \$26,000 ²⁰ | 45 | \$577 | 75% |
| Small mean | \$34,202 | 59 | \$473 | - |
| Small distribution | \$18,140 | 89 | \$312 | - |
| Variance | 53% | 151% | 151% | - |
| Grand mean | \$103,877 | 178 | \$420 | - |
| Grand distribution | \$261,277 | 285 | \$683 | - |
| Variance | 251% | 160% | 162% | - |

¹⁹ Case costs were calculated by dividing the total annual budget by the number of cases for 1994.

²⁰ Staunton is terminating operations in 1996 due to a lack of funding.

Table 5

Employees Summary

| City | How Many | Categories | Categories | Categories | Categories |
|------------|------------------------|---------------|-------------------------|-----------------|-----------------------|
| Harrison | 6 full, 1 part | exec full | 5 dept heads full | Trainer @20 | (soon) training coord |
| Fairfax | 2 full, 1 part, | exec full | intake & assig full | admin asst part | 6 court coord |
| Norfolk | 1 full, 3 part | exec @24hr | operations @ 24 hr | coord @ 37 hr | court liaison |
| Richmond | 1 full, 1part, +2 full | exec @ full | 2 full intake pd by BBB | - | court liaison @ 30 |
| Charlottes | 2 part | exec @ 20 hr | intake @ 20 | - | - |
| Fredrick | 2 part | exec @20 hr | [sec't @20 hr] | | - |
| Roanoke | 3 part | exec @30 hr | asst @20 hr | asst @16 hr | - |
| Warrenton | 0 [2 part soon] | [exec @ part] | [assist. @ part] | - | - |
| Staunton | 2 part | exec @20 hr | intake @20 | - | - |

Contacts

Table 6 is a summary of the contacts (almost exclusively telephone) made to the CDRCs. There is a breakdown of these contacts to indicate the number of contacts to the CDRC annually, the percentage that became mediations, what percent of the contacts were of what nature (business-to-business, person-to-person, and consumer), the importance of court referred work, who speaks with the contacts to do intake, and if the intake person is trained. Two areas show the greatest variation: the number of contacts and the rate of return. There are enormous differences in the numbers of contacts both between and within the two groups of CDRCs. One constant reflected in this chart is the very strong reliance by all of the CDRCs upon the court contracts. The number and percentages of contacts that do go to mediation vary greatly.²¹ Norfolk and Richmond report the highest number of contacts, by 50% over the next largest number of contacts. Norfolk and Richmond count every new query that comes into their offices as a contact, regardless of the nature of the inquiry (for information on this topic see Appendices 1 and 2, Contacts, question #37). Fairfax, on the other hand, only counts a new query that is a registered complaint; this narrows the number of contacts considerably. Harrisonburg only counts the queries specifically about mediation services as a contact. These calls very often are about training or calling to schedule a court ordered case. One might speculate that after adjusting the number of contacts to reflect an identical definition of the concept of contact that there may be an entirely different picture of the data. Because the Richmond CDRC has a non-select group of calls (counting every call that comes in to the CDRC) that are counted, Norfolk is just slightly select (count only new calls), Harrisonburg is a moderately select group (count only

²¹ Most of the CDRCs could not separate out the contacts that came in as court-ordered mediations and those that came in as “cold calls.” This exacerbates some of the discrepancies in the data.

those who inquire about mediation services), and Fairfax is a very select group of the calls (count only the calls that register an actual complaint) that come into the CDRCs, it would be fair to speculate that if adjusted to reflect a similar definition of “contact,” Harrisonburg’s number of contacts would be at least somewhat higher than 602; Fairfax’s number of 500 would be considerably higher; and Norfolk’s and Richmond’s numbers would be much lower than what is presented in the data.²² Certainly, the raw data is not an inaccurate reflection of the relative number of contacts the CDRCs receive.

²² If a picture could be drawn of this illusory data, it might have the number of mediations falling out in the same order in which the budgets fall. For the small CDRCs the author has done a projection of the number of contacts that Roanoke and Warrenton receive. These numbers are bracketed and found in Table 15. This projection was done in order to fill in a gap created by unavailable information. The projection uses the operational definition of the particular CDRC in question.

Table 6

Contact Summary

| City | # | % to Med | Bus/ Bus | Person Pers | Bus/ Per | Court Refer | Intake | Train |
|-------------|----------|----------|------------|-------------|------------|-------------|-----------------------|--------|
| Harrison | 602 | 50 | 3% | 80% | 17% | √ | specif empl | √ |
| Fairfax | 500 | 50-60 | 2 | 99% | few | very lg | specif empl | √ |
| Norfolk | 6000 | 4 | 7 | 50% | few | √ | specif empl | √ |
| Richmond | 4000 | 6.5 | n/av | n/av | n/av | lg | specif empl | √ |
| Av Large | 2775 | 39 | small | 73% | few | large | specif empl | √ |
| Total Large | 500-6000 | n/app | n/app | n/app | n/app | large | 4 | 4 |
| Charlotte | n/av | 85 | few | n/av | few | very large | anyone | may be |
| Fredrick | 200-300 | 20 | 0 | 0 | 0 | vlarge | anyone | √ |
| Roanoke | [60] | 50 | very small | 10% | very small | 70% | specific employee | √ |
| Warrenton | [60] | 50-60 | 1 | 99% | 0 | √ | director or president | √ |
| Staunton | 75 | n/av | 0 | 95% | 2% | √ | specific employee | √ |
| Av Small | 375 | 54 | very small | - | very small | most | various | √ |
| Total Sm | 75-1000 | 25-85 | very small | 0-99% | very small | most | - | 4 |
| Average | 1528 | 47 | small | 50% | very small | most | specific employee | √ |
| Grand Total | 75-6000 | - | - | - | 9 | 9 | 6 | 8 |

Rate of return is the other area of noteworthy disparity. There are several reasonable alternative explanations that would mitigate the disproportion. Perhaps this disparity in (the expected versus the reported numbers) may be partially explained as a problem of organizational structure within the CDRCs.

With regard to specialization, or the division of labor, the problem in many CDRCs is that any of a myriad of personnel may take the responsibility for speaking with contacts. In the large CDRCs, the survey reveals that a specific individual is responsible for dealing with contacts.²³ There is greater variation in the procedures in the small CDRCs (on the whole) than is found in the large CDRCs.

Standardization of tasks is an issue in the CDRCs. Generally, the intake person, even in the large CDRCs has numerous tasks to perform. Discretion as to the criteria by which a contact is counted may be a function of how busy the CDRC is, and, therefore, how much time they can afford to give to the person on the telephone. In several of the large CDRCs, although they have a specifically designated person to handle the contacts, that person has a number of different jobs. When this person is busy, the job of handling contacts is performed very differently than when she/he is unencumbered. The disparity is wide. For example, in one CDRC the identified employee may merely respond to questions as they are asked by the initiating party; or he will, when given ample time and opportunity, actually attempt a conciliation for the party. These are representative examples of a low level of standardization. Mutability is not necessarily a negative feature. Flexibility allows organizations to be "light on their feet," to change direction quickly and easily.

There are also contextual dimensions which impact on this problem with contacts coming into the CDRCs. The dimensions of technology, size, and goals of the organization have a direct impact upon the way the

²³ This information is supported by the information on employees (Table 20).

contacts are handled. Indirectly, the dimensions of environment and culture are also issues with which to contend. Once again, the organizational system is useful in explaining the bigger picture.

The technology of a CDRC helps to explain the issue of contacts, information accumulation, and assessment. With regard to the specific technological advancement of computers, in Richmond the generation of summary reports and graphs are a simple matter attributable to a data base. A CDRC like Charlottesville was certainly at a disadvantage because all that was available, in terms of computers, was word processing (refer to footnote, Table 1). Unfortunately, even the CDRCs that had data base available on their computers did not use them for case management. One of the most frustrating features of this low level of technology was expressed by many of the leadership of the CDRCs, who knew of an available program for case management, but were unable to afford it. In addition to the knowledge and disappointment of having a quality program out of their financial reach was the knowledge that the program would probably reduced their costs, increased their efficiency, made them look good, and improve their financial situation.

Another situation to consider relates to the number of employees. Size dimension refers to the number of employees in the organization. When there are very few (in Warrenton's case there were no paid employees) employees, they must fill all of the positions in the organization. They have multiple and varied job responsibilities. Making the organization look and act professional--that is, being proactive and doing strategic business planning and management,--is not a time-limited activity. The standardization and formalization of the organization become lower priorities when there is so much to do and so many activities that demand prompt attention.

It is possible that explanations for this phenomena might be discovered by considering the variety of ways the CDRCs count a "contact"

(as discussed above),²⁴ the multiple non-specific personnel who may be the receptor of the contacts and their training (see Table 6), and the inconsistency with which the contacts are counted in some of the CDRCs. For example, Charlottesville is part of a funding and support umbrella organization that may have anyone from the parent organization or any of the constituent organizations answering the phone, even in another part of the building. The various personnel may not be fully trained or available to record the contact in a fashion consistent with the policy of the CDRC. In the small CDRCs, three of the five (Charlottesville, Warrenton, and Fredricksburg) do not have specifically designated employees answering the telephones. In the other small CDRCs, such as Staunton, there may be no coverage at all for some of the hours or days. The mere fact that there is not a human voice, rather than an answering machine, to take the calls may be problematic in and of itself. Callers may turn to another avenue of conflict resolution if their calls are not promptly taken. These potentialities are examined in more detail below. Having some insight into these nuances may help to explain some otherwise discrepant responses. There is very little standardization or formalization within the individual CDRCs; these examples support the prior discussion on the structure of the CDRCs.

The goals of the organization are an important factor in deciding how to deal with the problems of contacts. If the goals include objectives that address the mediation needs of the community, then the allocation of manpower must be made accordingly. If, however, there is to be an emphasis on other areas of service, or other types of services, then appropriate decisions and allocations which will benefit those decisions are in order. For example, Harrisonburg and Norfolk place great emphasis on their most significant source of income: training. In Harrisonburg, 50% of their funding comes from training (Table 1). Norfolk cites training as its most significant source of income. Both CDRCs, however, have a strong commitment to doing mediation. In fact, all of the large CDRCs indicated

²⁴ Fredricksburg said that they actually do get, and count, calls about meditation (Appendix 1 and 2, Contacts, question #37).

in the survey that mediation was their *raison d'être*. All of the other activities are a sideline of their organizations.

The mission statements of most of the CDRCs specifically include wording about the provision of mediation services as their mission (Warrenton, Staunton, Roanoke, Richmond, Fredricksburg, and Fairfax). Norfolk alludes to mediation by referring to “providing...access...to dispute resolution processes,” (Appendices 1 and 2, Mission statements). Although their budgets are very different (Harrisonburg’s budget is more than twice that of Norfolk’s), both organizations have allocated personnel to their goal of doing mediation. Harrisonburg has a full time director of training as well as a half-time trainer. Harrisonburg also has a director of mediation services (full time); a director of training (full time); school mediation director (full time); and a case manager. Norfolk has no one person allocated exclusively to training but does have a nearly full time mediation coordinator. Both CDRCs also include a commitment to transformative processes in their mission statement. It is clear from this example that these two organizations have a commitment to doing mediation and have appropriated accordingly.

Not only are the number of contacts and their return important but also the types of contacts are important in understanding the market and lost potential for “selling” mediation to the public. There are some striking insights which can be drawn from the information on the types of contacts being made. Both business-to-business and business-to-consumer contacts comprise a very low portion of the contacts and yield very few mediations. The only large group, in any of the categories, for any of the CDRCs, is person-to-person disputes.²⁵ It is clear based on the data presented in Table 6 and Appendices 1 and 2, Contact, questions 43 and 45) that businesses are

²⁵ The term, “person-to-person,” is used here (for clarity purposes) rather than “interpersonal” because all disputes could be called interpersonal in that they are, ultimately, between people. Different CDRCs categorized their information in different ways. Some (such as Norfolk) did not count their court ordered work as interpersonal, others (such as Fairfax) did.

not calling the CDRCs, especially the small CDRCs, for their dispute resolution needs. In the large CDRCs, the rate of business-to business contacts is 2-7%. In the small CDRCs, the rate is from zero to “a few” percent. This process of few business dispute inputs and completed mediations outputs may be the beginning of a loop. The speculation is that because there are so few business mediation cases there are few, if any, new business referrals and contacts. This speculation was borne out in conversations with leadership in Roanoke and Norfolk. Interestingly, Roanoke does get “an increasing number” of construction cases that are of a business-to-business nature. The director specifically attributed the increase to word of mouth advertisement of the success of these cases. This is the only type of business-to-business case that Roanoke gets. The lack of EAPs (Employee Assistance Programs) that provide for mediation services was cited as a reason that there are not more consumer cases coming into the CDRCs.

One can only speculate about the reasons for the “word” of mediation not spreading to business. The CDRCs’ leadership was not able to provide insight or answers. It may be that those who are having these disputes do not trust a CDRC (that is, a “clinic” mediation center) with a consequential, material dispute. It is also possible that those who handle the contacts do not know how to work with these types of clients in order to “close the deal.” Finally, it may be that the leadership of the CDRCs is not able to solicit the business community for work. There is only so much time and energy that these leaders have. Most of the leaders, in the interviews, were exasperated at the amount of effort the job of outreach requires when juxtaposed to the amount of potential for growth in the field.

Mediation is often sold as “a kinder, gentler” form of dispute resolution, one well-suited for preserving on-going relationships. Often, business-consumer cases do not involve an ongoing relationship for the disputants. However, the potential damage to the good will of the business is certainly in jeopardy when there is a dispute. Also, the traditional method of resolution, adjudication, is a costly (and often, not cost-effective)

avenue of dispute resolution. The goals of empowerment (Honeyman, 1995; Cobb, 1993; Marlow and Sauber, 1990; Singer, 1990; and Haynes and Haynes, 1989) and restoration of harmony are “warm and fuzzy,” not cold, hard, bottom line, business-like concerns. With dispute involving a business, the hurdle of payment is sometimes removed. In some of the CDRCs (Norfolk and Richmond) a business may opt to contract with the CDRC to be “on retainer”; in a dispute, the business has already committed to attempt mediation, at its own expense. These disputes would probably yield fees more in line with actual costs and would be an excellent source of much needed revenue. These contacts should certainly be pursued if there is a way for the requisite shift in orientation to be reconciled with the CDRC's mission.

The only area of the CDRCs contacts which become mediations with any regularity is the interpersonal (person-to-person) variety (Table 6). The economics of business-to-business and business-to-consumer mediations is likely to be more financially lucrative than the interpersonal disputes; very often an interpersonal dispute is over amorphous and hard-to quantify or non-quantifiable interests. Converting a contact of this type into a mediation is a persistent and confounding problem. The evidence is in the return rate for even the most restrictive of the interpretations of the concept of a contact (Table 6). A concern that some people have in going into a mediation with either a business or another person is that they fear the other party's relative power and how it will affect the outcome and process of the mediation (Keltner, 1994; Roehe and Cook, 1989). While people become very committed to their dispute, mentor mediators interviewed reported that there is often a discrepancy between the parties' willingness to spend money on dispute resolution. Often one party is eager to mediate while the other wants resolution but is unwilling to invest much for it. This phenomena is repeatedly reported by the leadership and mediators interviewed for this survey. It may be that because a business has more at stake than just the amount in dispute they are more willing to mediate.

They also have their reputation and the hope of an ongoing relationship with the disputant, and this may be a consideration for the business.

Conflict is an unpleasant situation for many people (Keltner, 1994; Sandole, and Sandole-Staroste, 1987; Moore, 1986). The business and the other party are often similarly motivated to end the dispute. If a business looks at the logistics of the conventional means of dispute resolution, it may come to the logical conclusion that mediation is economical with regard to time, money and opportunity costs. What all of this translates to for the CDRC is payment for services rendered. The businesses may look at the mediation as a cost of doing business as well as an opportunity to cut their losses. In Richmond's and Norfolk's cases, the CDRC has a contract with some businesses giving the business a "rate" for a certain number of mediations. This arrangement may be structured in different ways, but is perhaps analogous to a business having a law firm "on retainer." These businesses have a mediation clause in their contracts and pay for both sides of the mediation. A benefit of having a mediation clause in the contract is that there can be no discussion about the relevant format for dispute resolution. The choice of how any dispute that arises is to be resolved has been agreed upon in advance. This arrangement also provides for the removal of the tendency seen in Table 6 with a larger number of respondents refusing mediation than initiators refusing mediation (see below).

Once a party does contact the CDRC, there are yet hurdles to be bounded. There is only limited information on the unwillingness of the parties to the conflict to participate in mediation.²⁶ In every case where information is available, the percentage of contacts that do not go to mediation is higher due to respondent unwillingness rather than due to initiator unwillingness (refer to Table 7). Again, it appears that the issue of selling mediation to contacts is critical to moving them to commit to

²⁶ The initiator is the person who makes the initial contact to the CDRC. The respondent is the "other" party/parties identified by the initiator.

participate in the process of mediation. Naturally, there would be suspicion on the part of the respondent as to any mode of dispute resolution chosen by their “adversary.” There is also risk on the part of the initiator in approaching mediation, as opposed to adjudication; a softer approach may be seen by the other party as a sign of weakness or mitigation. Apparently, these concerns are played out in the low rate of return of these contacts.

Table 7

Mediations Summary

| City | Mult Sess | Type | # | Initiator Unwilling | Respond Unwilling | Material | Specialist |
|-------------|-----------|---------------|---------|---------------------|-------------------|--|-------------|
| Harrison | 40% | family/indust | 415 | 15% | 33% | billing, ref src, history, backgrd | no |
| Fairfax | most | all | 382 | very small | 50% | lot of info | yes |
| Norfolk | yes | family | 250 | few | few | bkgd info, intake, ct info | no |
| Richmond | yes | family | 262 | few | 20% | none | no |
| Total Lg. | 4 | mostly family | 250-415 | 3 small | 0-50% | 3 intake + | 3 no |
| Charlottes | 50% | family | 70 | n/av | 10% | intake sheet | yes |
| Fredrick | 40% | prop settlmt | 119 | 5% | n/av | court info, record, intake, allegations, etc | yes |
| Roanoke | most | family | 99 | none | 5% | check list & bkgd info | yes |
| Warrenton | some | family | 35 | n/av | n/av | "cheat sheet" | n/av |
| Staunton | 30+% | n/av | 45 | 5-10% | 15-20% | none | no |
| Total Sm | 5 | mostly family | 30-119 | 0-10% | 5-20% | none-lots | 1 no |
| Grand Total | 9 | 8 | 30-415 | 0-10% | 0-50% | none-lots | 3 yes; 4 no |

As mentioned above, one might speculate that with such a vast number of inquiries coming into the CDRCs, that the inquirer cannot be given the attention needed to sell mediation. The initiator, it would be logical to assume, is already somewhat motivated or inclined to “buy” mediation; after all, the initiator *initiated* the call to the CDRC. The respondent (who in every known circumstance in this research is more likely to refuse to participate in the mediation than is the initiator) needs to be educated, motivated, and sold on mediation (Table 7). For example, in Harrisonburg the difference in the rate of willingness between the initiator and the respondent is 16%. In Roanoke the difference is 5%. Staunton cites a difference of between 5-15% in the rates. Table 6 indicates that almost all of those who answer the phone are qualified to discuss mediation with an inquirer; however, what is not known is if those who answer the calls from contacts are qualified or knowledgeable enough to market mediation (and close the deal). There is tremendous potential in having the right type of person, with the right type of training, holding the phone.

Assessment

Evaluating performance for effectiveness and satisfaction is important in any organization involved in the direct delivery of service. Table 8 is a summary of the information about the post-mediation evaluations the CDRCs conduct after their mediations. These evaluations are done to assess mediator performance and to get feedback about the mediation and mediation process. The most notable and important finding is that all nine of the CDRCs do evaluations for effectiveness; eight of the CDRCs evaluate for satisfaction as well as effectiveness. It is important to the process of mediation, as discussed in Chapter II (Scimecca, 1993; Kolb, 1986), that there be an understanding of what is transpiring in the practice of mediation. What “works” and what doesn’t work is part of the learning and growth process. Through evaluation, the individual CDRCs, the group of CDRCs, and the entire group of mediators in Virginia (as reported to the

oversight body, the Supreme Court), may be able to improve their organization, structure, and activities.

Table 8

Evaluations Summary

| City | Eval:Effect & Satis | Other Evals | Follow-up | Why | Use State Eval |
|----------------|-------------------------|---------------------------------|-----------------|-------------------------------|-------------------------|
| Harrison | yes | co-med | yes | check for any problems | no |
| Fairfax | yes | for non-court contract cases | scrutinize | check quality | for all court cases |
| Norfolk | yes | debrief | scrutinize | improve satisfact | yes |
| Richmond | yes | oral & written | yes | eval mediator performance | only for court cases |
| Total Lg. | 4 | 2 | 4 | 4 | 3 |
| Charlottes | yes | peer/mentor | yes | check on agreement | did not implement |
| Fredrick | yes | co-med & observer | yes | for mediator improv | for all cases |
| Roanoke | yes | co-mediator | neg comments | i.d. areas of improv | yes |
| Warrenton | yes | center has own form | no | quality & self- reflection | court cases |
| Staunton | effective- ness only | debrief after session | no | not applicable | yes |
| Total Sm | 5 | 5 | 3 | 4 | 4 |
| Grand Total | 9 | 7 | 7 | 8 | 7 |

The evaluations, aside from the Supreme Court form (see Appendix 3), were endorsed by the CDRCs to ultimately improve the quality of the services delivered. That goal was to accomplished by troubleshooting when problems were discovered. There were follow-up inquiries made with both the parties to the process and the mediators who participated in the mediation. In addition, some of the CDRCs also do co-mediator evaluations. The Court also requires an evaluation of all of those being mentored. This dissertation discusses the Court's evaluation instrument. This choice was made because the preponderance of the CDRCs did, at the time (and all were required to perform), this evaluation.²⁷

The Executive Secretary of the Supreme Court of Virginia requires a client evaluation of mediation and mediators (OES form ADR-1002, mentioned above). Its stated purpose is to "ensure that quality mediation services continue to be available to the citizens of the Commonwealth" (OES Form ADR-1002). The form is brief, spanning two pages. It asks the parties to the mediation to provide some basic objective information, such as name, address, role in dispute and time spent in mediation. It also asks a number of subjective questions such as the relative appropriateness and helpfulness of mediation with regard to their conflict, and why they feel as such. The questions also ask if the parties would recommend mediation to others or choose to use mediation again, and why. The second segment of the questionnaire deals with an individual evaluation of the mediator(s). The questions in this section are basic ethics issues involving mediator behavior.²⁸

As was mentioned in Chapter II, there is generally a need in a CDRC for everyone affiliated with the organization to wear a number of different hats; mediators are no exception. A mediator in many of the

²⁷ Two of the CDRCs, Charlottesville and Harrisonburg, reported that they did not use/distribute the Supreme Courts evaluation forms at all.

²⁸ These questions reflect the transformative orientation of the Court with regard to its mediation processes.

CDRCs performs a number of different jobs such as secretarial (typing his/her own agreements and making photocopies) and cashier (assessing and collecting payments from the parties). It also generally falls upon the mediators in the CDRCs to disperse and collect the evaluations (although the form does give the disputant the address and phone number to call if he/she prefers to convey the form and information themselves). Seasoned mediators and mentors report that it is apparently uncomfortable for many clients to hand an evaluation back to a mediator if they have had anything short of glowing reviews for that mediator and/or process. Knowing the mediator will be collecting the information may prejudice some of the answers they give on the evaluation.

Another problem with the evaluations, as the leadership of several of the CDRCs reported, is that many clients do not have an operational vocabulary that includes some of the words used in the evaluation (such as “impartial” or “consult”). For this reason a disputant may make serious errors in evaluating the mediator. This problem is born out by the many errors the leadership note that clients make when completing the evaluation forms. For example, an otherwise completely positive evaluation will be marred by a negative response to the question of the mediators’ impartiality. When follow-ups were done to check on this discrepancy, the parties overwhelmingly indicated that they had no complaints at all about the mediator.

Last is the problem of response set. Several of the questions that are grouped together repeatedly ask for a response that, if the mediator did a good and ethical job, would require a positive answer. There is one question in the middle of this group of seven questions where an affirmative response indicates poor and inappropriate performance and/or behaviors. Very often the parties, in their haste or inattention, will automatically assume that an affirmative answer is also a complimentary answer (as it was for the other six questions in the set) and respond affirmatively. This response, however, indicates that the mediator(s) pressured the party into agreeing something against the party’s will. Again, experience has taught

many of the leadership of the CDRCs not to be concerned with this apparently aberrant answer. Overwhelmingly the parties will inform the leadership that they had no complaints at all about their mediators. The leadership has learned to review the answers with a cautious eye before jumping to any conclusions. Even if the all of the other answered questions were meant to be complimentary, there is still the chance that, on this one measure, the mediator was not appropriate and did pressure the party. Anyone reviewing the evaluation would have to contact the party to get clarification. Usually, the CDRCs just assume that it was an error. The same problem applies to the questions about impartiality. There are other points about the questionnaire that are problematic; however, the most disappointing aspect of the entire evaluation is that it is usually the sole source of evaluation of the mediators' performance as well as the process, and therefore should be an excellent instrument for evaluation; however, none of the leadership felt it was.

As mentioned above, in addition to the evaluation of court-contracted work, all of the CDRCs ask for another (different, not additional) evaluations by the parties (Warrenton and Fairfax) and/or by the mediators of each other (Table 8). These evaluations are not always in writing (Norfolk, Richmond, and Staunton). A variety of reasons were given by the different CDRCs for doing extra evaluations, with no trend noted. There is also a question about the review of the evaluations. The CDRCs' purpose in doing a review of any kind was to address the objective of improving the way the CDRC delivered services, through a variety of means, such as improving mediators' performance or checking agreements for completeness and durability. Regardless of what other practices the CDRCs follow (with regard to evaluations), all of the CDRCs that follow-up their evaluations do so with the minimum purpose of checking for trouble points in order to improve the level of satisfaction and the quality of the services delivered (Table 8, and see Evaluations, question 118 in Appendix 1 and 2).

The CDRCs follow-up the evaluations when they see a potential for trouble or dissatisfaction, a "red flag" (Table 8, and see Evaluations,

question 117 in Appendices 1 and 2). In some cases the means by which this is accomplished is to call a disputant and ask more pointed questions about their mediation experience or their mediator's performance. In other cases, the CDRC may be concerned with a mediator's performance because of peer or disputant evaluations and will either question their co-mediator or call the mediator with the identified "problem" to get to the root of the concern. Clarifying questions are asked of those involved. At times a prescription is decided upon to improve the situation; at other times the situation is deemed moot; and in still other occasions the decision may be to avoid using the particular mediator for future casework or for a specific type of case. Each of the CDRCs reported that the director of mediation or the executive director generally deals with these rare cases on an individual basis. It is rare that a CDRC does any formal inquiry or outright censuring of a mediator. Generally, if a mediator is found wanting, the CDRC just stops asking him/her to mediate for the organization.

Although several of the CDRCs indicated that they would like to have been able to do multiple or long-range repeat evaluations (to re-evaluate over time to see if there is a change in attitude upon reflection), none were able to do so due to sparse resources. Even when the services of a student intern were available, the other needs of the CDRC superseded the desire to do a structured effort. Indeed, the only times that the CDRCs did have multiple follow-up evaluations was when an outside individual came in expressly with an agenda to do research that demanded the multiple or long-term evaluations.

Employees

For the most part the employee summary (Table 5) is self-explanatory. All of the large CDRCs have an executive director. Only Norfolk's director is part-time. Of the small CDRCs, each has a part-time director, with the exception of Warrenton, which had, at the time of the

study, never had any paid employees.²⁹ In several of the CDRCs, the executive director was employed less hours than at least one of their employees. In Norfolk's case there are two employees who work more hours than the executive director.

In the two centers that employed business managers, there was a different sort of culture to the organization. In both Richmond and Harrisonburg, the directors are physically removed from the rest of the employees and there is an almost elitist air to the executive office. These two centers have commonalities in their structure and cultures. They are the groups that do the most training and the most mediations. They are also the highest-budgeted and have the most staff persons of all of the CDRCs.³⁰

Mediations

Table 7 presents the summary of answers to questions about mediations performed in the CDRCs. In this table is information on the preponderance of multiple session cases, the type of mediations that have multiple sessions, and the actual number of mediations performed. The table also provides the information on cases presented by initiators but not opened. The table provides information on the kinds of materials with which the mediators are provided before going into a mediation. Finally, the table indicates if the CDRC prefers to use mediators who have a personal expertise in matters related to the dispute.

In the area of mediations, the most prominent feature of Table 7 is the natural grouping of the CDRCs by number of mediations performed. The numbers of mediations in the nine CDRCs range from 35 to 415 mediation cases.³¹ The gap between the two groups, in terms of numbers of

²⁹ Warrenton was about to begin paying two part-time employees including their acting director.

³⁰ Only employees who worked more than seven hours weekly were counted.

³¹ A mediation, for these purposes, is defined as at least one actual meeting with at least two conflicted parties, and a neutral third party, in attendance where some dialogue is carried on.

mediations, is 130 mediations (more than 100%) at the smallest part of the chasm. As was discussed in the introduction, these groupings coincide precisely with the groupings for budgets of the CDRCs; there is a general positive relationship between the expenditures of a CDRC and the number of mediations performed. For the large CDRCs, this relationship is proportional to the number of mediations. For the small CDRCs, the positive relationship does not hold when looking at the individual small CDRCs. However, as a group, the small CDRCs *are* positively related to the numbers of mediations. This data invites speculation. Certainly, there are other areas of information which seem to coincide with this grouping; for example, the number of employees, as would be expected, is much greater in the large CDRCs than in the small CDRCs. None of this information is remarkable in and of itself. In fact, it would seem illogical, on the face of it, if there was an inverse relationship between budget and mediations.

In summary, the information in Table 7 generally fits with the expectations of the mediation literature. There is a data outlier presented in Table 7. However, Fredricksburg and Roanoke, with 119 and 99 mediations respectively, are out of proportion to the other CDRCs and their budgets. Roanoke explains that their low costs are due to the large load by the court cases it receives and the excellent word of mouth publicity it gets. Roanoke was able to provide some insight into their low costs. The staff at Roanoke is grossly underpaid, yet they choose to stay because of their commitment to what they are doing. Employees who could choose job opportunities outside the field of mediation, for considerably higher compensation, are found in many of the CDRCs, in positions varying from the level of executive director through to the volunteer mediators. They are willing to accept very minimal, or no, wages for their work. Their dedication to their work offsets the costs in the CDRCs. In large part, the personal dedication of those who work in the CDRCs makes their viability possible. This is seen in many of the CDRCs, such as Warrenton (no labor costs because of an all volunteer office and leadership), Roanoke (all of its employees work for very low wages), Charlottesville (executive director is paid very low wages), and

Norfolk (its administrative staff is highly qualified and accepts very low wages for extensive hours of work).

Fredricksburg's explanation for this high number of mediations is that in the referring court there is an individual who has been very successful in setting up a formalized court referral service to the CDRC. This relationship has resulted in a large boost to Fredricksburg's caseload. Also, Fredricksburg does, almost exclusively, domestic (family) mediation work. Whereas in other CDRCs there may be considerable costs incurred in order to get court referrals (by hiring someone to sit at court waiting for referrals and working with the Bench), the referrals automatically come to the Fredricksburg CDRC. Additionally, the referral source from satisfied clients increases the number of outside referrals that come into the CDRC.³² These factors may explain some of their low case cost. Also, Fredricksburg's limited staff (under 40 hours per week) and modest office help to hold their costs down.

The responses to the questions regarding multiple sessions show that all of the CDRCs found that it is usually the domestic cases (divorce, property settlement, custody, child support, and parenting agreements), especially those involving complicated financial considerations (Sarat, 1994) which have multiple sessions. However, the percentage of cases requiring multiple sessions varied (from "some" to "most" and from 3% to 50%) (Table 7).

Table 7 provides a summary of the information requested of the CDRCs on the materials made available to a mediator to take into mediations. The answers were scattered; the yield was a variety of responses with no particular trends in the data. Some of the CDRCs provided a "lot of information" (Fairfax) to their mediators, others provided them with none (Richmond). What does emerge is that there is no particular grand plan in the manner upon which this decision is arrived.

³² The outside referrals usually are the result of one satisfied domestic relations client recommending the CDRC to another domestic relations client.

When the CDRCs were asked why they provide the amount of information they do, there was no consensus or firm ideological basis by any of those responding. Those who provided more information to their mediators felt that the information was “helpful,” and those who did not provide much information gave different reasons for their decision; none enlightening. Some of the CDRCs give very little information to their mediators because they are not organized enough to give them more. Others give little information because they believe the information is unnecessary or unwarranted. There were almost as many reasons for the differing amounts of information provided as there were CDRCs.

The last column of Table 7 addresses the subject of the use of specialists, those with a particularly applicable expertise in a particular field, as a mediator. The large CDRCs do predominantly eschew the use of specialists for mediation. There is no apparent trend in the small CDRCs. The purposeful use (and certainly the necessity) of specialists is generally not supported by the literature (Sarat, 1994; Burton, 1990; Scimecca, 1990; Burton and Sandole, 1986; Moore, 1986; Schellenberg, 1982; Fisher and Ury, 1981).

Real Costs of Mediated Cases

Table 4 presents the total budget, the number of mediations, and the agreement rates for the CDRCs. The budget consists of all sources of income from training, mediation fees, donations, and grants.³³ What is not factored into the budget is gifts in-kind, such as donations of office and mediation space, volunteer services, and hardware and equipment.

The budget totals range between \$282,200 in Harrisonburg to approximately \$26,000 in Staunton.³⁴ The CDRCs with a budget ranging from \$282,200 to \$120,000 are in the large category while the CDRCs with

³³ In Staunton’s case the figure used was the budgeted expenses. That is different from the income figure for the year.

³⁴ Staunton was unable to provide an exact figure.

budgets from \$48,140 to \$32,600 are considered small.³⁵ The CDRCs fall into two distinct bunches with a gap of more than \$70,000 between the two groups. Both the groupings of numbers of mediation and the groupings of size of the budgets of the CDRCs coincide (for more information on this topic refer to section on Mediations in this chapter).

Table 4 is a tabular representation of the real costs to the CDRCs of a mediated case. Applying the principle of economy of scale, there should be a greater rate of return on investment (or less of a loss) for many mediations than for a few mediations; the exact numbers are what are left in question. The key to an economy of scale is to spread the fixed costs over an adequate base. There does seem to be evidence that there is an economy of scale with regard to lessening losses incurred by offering mediation services.

The author's concern for budgetary allocations is based upon an apparent deviation-amplifying loop of training and court-referred mediation work. The cost of conducting a mediation far exceeds the remuneration for the case contracted by the Court. The more mediation cases performed, the larger the deficit. Although there is an economy of scale to consider, this principle is only applicable up to a certain point, if at all. The deficit incurred for each mediation serves to increase the overall deficit of the organization. Consequently, the CDRC must find a way to compensate for this increasing loss³⁶ by counterbalancing the court-referred work with work such as business-to business cases that bring in more income.

For the large CDRCs, the costs are closely aligned with one another, with the exception of Harrisonburg. The unadjusted rates are from \$448 (in Fairfax) to \$680 (in Harrisonburg). (For an explanation of the adjustment of rates, see the discussion below.) The Fairfax, Norfolk, and Richmond costs per mediation only have a spread of \$37. Regardless of which numbers are used, it is obvious that the income from court-ordered cases indicates that

³⁵ These determinations are those of the researcher alone.

³⁶ Paradoxically, the more successfully the CDRC markets to the judges for court referrals, the larger the deficit becomes.

the CDRCs, while having an economy of scale, can look forward to lessening their losses (at best) rather than making a profit with increased number of mediations. The more mediations a CDRC does, the more the CDRC loses. This is especially true if the CDRC does court work *pro bono* during the periods when court contracts are unavailable. At this time the income is zero, while the expenses are unchanged. This is the scenario of the large CDRCs in the Commonwealth.

When seeking the point at which there is an economy of scale, the groupings of number of mediations were used for projection purposes, if any projection can be made at all. It would seem that the optimal number of mediations, for financial purposes, is between 99 cases, or \$329, (Roanoke) and 262 cases, or \$458, (Richmond). Based upon these figures, the costs are still dropping at 99 cases and have definitely started to rise at 262 cases. The lowest cost of all of the CDRCs is Fredricksburg at 119 cases (\$317). This information may be of importance in planning for the CDRCs. In order to fulfill the mission of the community dispute ideology it may be more financially (and perhaps sociologically) prudent to have several smaller CDRCs.

It is also interesting to note that the only large CDRC that does not have a parent organization, Harrisonburg, is also the outlier in regard to the cost per mediation (\$680, the others spread \$37). An projective adjustment was calculated to ascertain if the *prima facie* costs are an accurate representation of the situation. Fairfax's adjusted cost per mediation would be \$475. The differences in the adjusted costs would leave a spread of \$27 amongst the other large CDRCs. Even when adjusting for the IOLTA grant Fairfax received, Harrisonburg's costs are very high; they are 40% higher than the highest of the other large CDRCs.

Harrisonburg may be the most appropriate example of the problematic spiraling loop. Harrisonburg is not only committed to providing community service (according to its mission statement) and follows through with that commitment by providing more mediations than any other CDRC, but it also offers a richer and more diverse training

schedule than any other CDRC. Fifty percent of Harrisonburg's income is attributable to training. Consequently, Harrisonburg employs far more personnel than any other CDRC; its operating costs are 64% (\$111,160) higher than the next highest CDRC with less than 9% (33) more mediations. One might speculate that it is the parent organizations that shelter the large CDRCs from even larger economic pressures.

As mentioned in the section on Funding, all of the large CDRCs identified training as their most significant source of funding. Fairfax, the exception, was able to obtain an additional year of the IOLTA grant, and the impact of that funding was that its financial rigors were mitigated. The leadership of Fairfax was at liberty to do organizational planning with less of the pressures faced by other large CDRCs. One might speculate that there is a relationship between the fact that Fairfax does not identify training as their most significant source of funding (the only large CDRC that does not identify it as such) and the IOLTA grant relieving the pressure. It may be that all of the large CDRCs must be compelled to find funding for their organization, outside of the mediations they perform, in order to stay financially viable; in Fairfax's case it was IOLTA grant. While training brings in a proportionately larger income for work done, it also increases the CDRCs' personnel costs (Table 5). Harrisonburg had six full time employees and one part time employee at the time of the survey. The jobs consisted of: executive director, director of mediation services, director of training, school mediation director, case manager, training specialist (part time), administrative assistant, and a training coordinator (about to begin working). Not only are there generally more employees, but there are also a number of employees whose job time is exclusively dedicated to training. The other large CDRCs also have more employees. There is a deviation-amplifying loop. (There is more discussion of costs of mediation in the section, Mediations, in this chapter.)

The large CDRCs have chosen to pursue the highly remunerative avenue of training, generally offering mediation training. To understand why this phenomena repeats itself in the larger CDRCs is a matter of

simple mathematics. The CDRC should choose to expend its valuable manpower on a tasks, where it will get the “most bang for its buck.” A court-referred general case pays \$80 for up to four hours of mediation or \$175 for up to eight hours of family mediation. A CDRC can invest 20 hours in conducting a training for general mediators and charge 20 people \$200-400 each for the opportunity. For the short term, the fiscally responsible administrator is going to invest time and effort into building the consumers of mediation training. The mediation training also may lead to mentoring (for an additional \$250 per person) and family training and mentoring (another \$350 each, per person). The time available to the administrator is limited and will be spent on assuring short term viability, a necessity for the CDRC rather than expending energy on developing contacts in the business world or in the inner city for the long term.

Mediators

At the heart of the organization of the CDRC is the mediator. Without the mediator there would be no training, mentoring, delivery of service, or evaluation. The discussion of mediators is divided into several sections: payments, training, mentorship, and assignment to a case. Some of the summary information about mediators referred to in this section (Table 9) and is repeated in Table 10 (Volunteer summary).³⁷

³⁷ This repetition is meant to assist the reader in the necessary comparisons made within the dissertation.

Table 9

Mediators Summary

| City | Paid | Extra Training | In-House Training | Other Training | Criteria for Assignment | # Mediators | Mentorship |
|-------------|----------------|----------------|-------------------|----------------|----------------------------------|-------------|------------|
| Harrison | some mediators | no | monthly | encourg | low/high exp.team, gender & race | 52 | yes |
| Fairfax | some mediators | opt | monthly | informed | strengths & experience | 120 | yes |
| Norfolk | 1 | not yet | not yet | informed | mentorship | varies | yes |
| Richmond | no | no | no | no | no | n/av | yes |
| Total Lg. | 0-some | 3 | 2 | 3 | 3 yes | 52-120 | 4 |
| Charlottes | honorarium | no | yes | yes | expertise, gender, exp | 30 active | ltd. |
| Fredrick | \$10/hr | none | some | no | team match | 32 active | yes |
| Roanoke | no | must | yes | no | special needs and gender | 24 | yes |
| Warrenton | no | n/av | n/av | n/av | n/av | 12-14 | yes |
| Staunton | n/av | no | none | n/av | no | n/av | no |
| Total Sm | 2 | 2 | 3 | 2 | 3 yes | 12-30 | 4 |
| Grand Total | - | 5 | 5 | 5 | 6 yes | 12-120 | 8 |

Table 10

Volunteers Summary

| City | Use Volunteers | Paid | Training | In- Service | # Med- iators |
|--------------|--------------------------|------------|--------------|----------------|------------------|
| Harrisonburg | mediators & fill- ins | no | monthly | ← | 52 |
| Fairfax | vol. coord in court | office:yes | monthly opt | inform | 120 |
| Norfolk | yes | no | soon | no | varies |
| Richmond | yes | no | no structure | no | n/av |
| Av Large | yes | no | little | no | - |
| Total Lg. | 4 | 3 | 3 | - | ?-120 |
| Charlottes | yes | no | none | yes | 30 |
| Fredrick | yes | no | none | no | 32 |
| Roanoke | yes | no | no structure | no | 24 |
| Warrenton | only vol. | rarely | no structure | yes | 12-14 |
| Staunton | not in office | no | n/appl | n/appl | n/av |
| Av Small | yes | no | little | no | - |
| Total Sm | 5 | - | 4 | 2 | 12-32 |
| Average | yes | no | little | no | - |
| Grand Total | 9 | 8 | 7 | - | 12-120 |

Payments

Mediation has become a hot career (Davis, 1993). The market is being flooded with those who wish to mediate, to be mentored, and to be trained. In fact, the cry of the volunteer mediator lamenting for an adequate number or types of cases to keep his skills sharp is often heard. In some areas there is a real dearth of truly excellent volunteer mediators who are able to devote the time needed by the CDRCs. Certified mediators must be available to mentor those who wish to become certified; one must be mentored by a certified mediator to become certified. The leadership of the CDRCs and many mentors express their frustration at a system that has little consistency in evaluating its practitioners. At a recent meeting of the Virginia Mediation Network and at the annual SPIDR meeting, open forums concerning certification requirements took place. Repeatedly, there were lamentations about the shortages of mediators who were well trained enough to properly perform their duties.

Some of the CDRCs have opted to pay particular categories of mediators (i.e., master, mentors, experienced) for their services. This fee/stipend/honorarium is being proffered for different reasons, depending upon the CDRC, from acknowledgment of the person's status or expertise to an attempt to partially compensate them for their opportunity costs. Harrisonburg, Fairfax, Charlottesville, and Fredricksburg pay some of their most qualified mediators. Norfolk also reported one paid mediator at the time of the survey. No marked trend emerges on this topic.³⁸ The two small CDRCs pay more mediators on a more regular basis than either of the large CDRCs.

Until now, smaller programs, as in most of the Virginia CDRCs, have used the available "naturals," those who are inherently talented or particularly excellent, due to their socialization or vocational experience, in

³⁸ Norfolk did not officially count as part of the group that regularly pays mediators because of the number of hours the mediator employees worked .

the specific skills requisite to a mediator. Because of their small caseloads the use of this limited cadre has not been pushed beyond reasonable boundaries; they have not been overwhelmed. But as Zack (1985) has indicated, these highly qualified mediators, who happen to be volunteers, are not being replaced adequately, in either numbers or abilities. The market is being beset with hopefuls who may or may not be prepared to take on the responsibilities of the vocation (Davies, 1993). There is consensus in the literature that there are more than enough people who would like to take on the role of the mediator (Honeyman, 1995; Sarat, 1994; Davis, 1993). By paying some of the best mediators at least a small fee or honorarium, the CDRC can acknowledge the deference and appreciation the CDRC have for the mediators' skills and the mediators' investment of time and expertise.

Training

Ongoing, continuing training is an important requirement of any mediator. Not only does one need the training to be certified and recertified in the Commonwealth, but most professional associations require that their adherents participate in continuing education courses. The survey data found that, as in the case of payment to mediators, there was no apparent pronounced trend. There does seem to be a relationship between the CDRCs that pay their mediators and provide training opportunities. However, all CDRCs who pay mediators do not provide regular training opportunities in-house (as is the case in Fredricksburg), neither do only the CDRCs who provide in-house training all pay their mediators (as is the case in Roanoke). But Charlottesville, Fairfax, and Harrisonburg all have regular training opportunities in-house and all at least encourage or provide other training opportunities as well. The import of the link between payment to mediators and ongoing training opportunities is that while each of these factors, separately, give credence to the contribution of the mediator, their joined message is greater than the sum of the parts. This relationship could be construed as a recognition of the value of the master mediator as an asset and as a professional. The CDRCs which provide both these

features give a strong message to the mediators and the mediation community about their commitment to mediation as a profession.

Some of the CDRCs take the position that a commitment to ongoing training is so important and valuable that they offer scholarships for mediators to attend training opportunities. This small, but meaningful gesture, is an attempt to resist the drift from the concepts of a community-service organizational focus (Merry and Milner, 1993; Schwartzkoff and Morgan, 1982; and Shonholtz, 1984). Perhaps the gesture is symbolic of the efforts of the CDRCs to persevere in their community mission (for more on this topic, refer to the section on Mission statements in this chapter). When comparing the list, however, between the CDRCs that pay their mediators and those that have a community service statement (refer to Table 3) within their mission statement, of the four or five,³⁹ only Harrisonburg and Charlottesville do both. There is little evidence given in the agency interviews that would lead one to conclude that the CDRCs which include a community service component in their mission statement, and these would be the most logical to expect to have a community-oriented organization, actually work by design toward serving the community. Harrisonburg and Charlottesville did recognize their commitment to financially assisting mediators with the cost of continuing education as a conscious connection between their mission statement and their community obligation.

The large CDRCs not only have larger budgets, they also have a larger number of mediations, trainings, and volunteer mediators. (Some, such as Harrisonburg, choose to limit their corps to a relative few.) This economy of scale gives the large CDRCs an advantage in being able to spread any training costs out over a larger audience. The large CDRCs had more of a tendency to offer in-house training, refresher courses, and information (Table 9). This is probably attributable, in addition to the cost benefits mentioned above, to the fact that they were in the business of selling

³⁹ It is not clear if Roanoke's mission statement includes a community service statement.

training to the public and had the resources in terms of personnel or access to personnel to provide the training (refer to Table 10). The small CDRCs felt that such training was needed and worthy of the requisite time and effort, but they did not have the ability, expertise or financial ability to offer this service to their mediators. There were two exceptions: Charlottesville and Roanoke. Charlottesville did offer training but not in-service training for its mediators. Roanoke had a mandatory eight hours of in-service training that was given free of charge to their active volunteer mediators. It should not be a surprise that of the small CDRCs it was also only Charlottesville and Roanoke who had transformative initiatives in their mission statements. They obviously value a quality process in mediation and want their mediators to be properly prepared to carry out that process.

Regular training for mediators would be beneficial both to the CDRCs and to the mediators. The CDRCs could use this opportunity to refresh mediators in skills rarely used or to update them on new information, such as child support guidelines or new evaluation procedures. It could also be used to check and reinforce the skills of mediators who either rarely mediate or who may be weak in some area(s).

There are ancillary benefits to training, other than the overt advantages of the actual training, for the mentoring mediator. Once they have been mentored, the mediators rarely get to see or exchange ideas with other mentors. At the Spring meeting of the Virginia Mediation Network two opportunities for training were presented. The overwhelming response to these training sessions for mediators was positive. Not only did the mediators enjoy the sessions but they also expressed their support for more of the same. Further, when Norfolk instituted a training session for established mentors, the response was tremendous. Not only did the mentors attend the session but they participated vigorously, and openly shared their appreciation and need for this, and future sessions like it. The reasons given by all those who support these kinds of trainings are as much in the sense of belonging to some sort of group of professionals as much as that it is a relief from the loneliness of mentoring but never being mentored.

The importance of being able to reflect upon one's work was recently iterated as the keynote to the Spring conference of the Virginia Mediation Network by Michael Lang. There are few, if any opportunities for most mentors to have their work evaluated, outside of client evaluations, once they have finished being mentored. Also, the issue of camaraderie and support is a real one. The mentors, mentorees, the CDRC, and the practice of mediation all benefit from frequent association and interaction.

These occasions can also be a time when the experienced mediators can regroup in support of one another as well as share skills and be updated as to the activities of the organization. It is important for the mediators who give so much of their time to feel that they are appreciated and understood. While the mediator is certainly the identified beneficiary of these meetings, there is obvious benefit to the CDRC. It is desirable for all volunteers to keep a sense of identity with and ownership of the CDRC. The time spent with the mentors and trained mediators may well pay off in having these dedicated volunteers remain active volunteers, mediators, and mentors by helping to maintain their connection to the CDRC.

Mentorship

Training to be a mediator requires both a practical, as well as well as a pedagogical, component (Honeyman, 1995; Keltner, 1994; Sarat, 1994; McKay, 1990; Zack, 1985). One cannot just read about mediation and expect to be able to be a capable practitioner. The practice of skills is essential to the competency of the mediator. These practice skills are often honed in actual mediations. In Virginia, the requirements of general and family certification include a mentorship with certified mediators. Without the recommendations of these mentors a mediator candidate cannot become certified.

There is a strong commitment within the CDRCs in the Commonwealth to support mediation mentorship. Eight of the nine CDRCs replied that they did mentor mediators for certification; Staunton has no mentorship program. Many CDRCs have put disclaimers into their

training program agreements;⁴⁰ nearly all of those who take mediation training also wish (they believe) to become certified mediators, or, at the very least, to receive the mentoring. The CDRCs have had to limit those whom they mentor for two reasons. First, there are frequently a limited number of cases and mentoring mediators for all of those who wish to become certified. Therefore, those who are being mentored frequently must wait from several months to a year to get their required cases. Second, everyone who is attracted to mediation is not necessarily adept at or has an aptitude for mediation. These people may or may not ever be able to develop the appropriate skills to become a good mediator (Keltner, 1994; Davis, 1993; Zack, 1985). Just as there are those who have a natural talent for mediation, there are also those who naturally have no talent for the process. No amount of training can change that aptitude (Sarat, 1994).

The pressure to train all comers is strong; “many training programs...want to profit from the mediation bandwagon that is sweeping the country” (Keltner, 1994, p. 106). First, the CDRCs are not financially independent organizations. They are run by boards of directors whose mission implicitly includes fiscal responsibility. In order to offer services on a sliding scale and be professional there must be income generated from other sources; training and mentorship are big income producers. Also, if the CDRCs do not do the training, then a plethora of private mediation groups will step in to do the job. These for-profit groups may or may not offer a quality program to an uneducated public.

As stated above, some CDRCs limit those they will mentor for certification. This decision goes right to the core of the recurring argument of finances versus responsibility that runs through many of the discussions in this chapter. The fact is that mentoring is a profitable enterprise. Not only is it a service that is offered at absolutely no expense to the CDRC, save the administration costs, but it also stimulates sales of future mediation

⁴⁰ So popular is the concept of certification that some of the CDRCs must limit the number of individuals they accept into their mentorship programs.

training for the trainees and their friends. As the some of the leadership of the CDRCs have indicated, it is very difficult for a CDRC to turn its back on \$500-\$1000 per person in training and mentoring fees which can be culled with relatively little effort. The leadership of the CDRCs and experienced trainers agreed that just as they believe that there are “intuitive” mediators, they also believe that there are some individuals who may wish to choose mediation who will not ever be capable of competently mediating, even with excellent training, close mentoring, and great motivation. Furthermore, it is doubtful that one could find a mentoring mediator who would not confirm the fact that there are some trained individuals who just do not “get it.” For some of these people it may be that they have been so indoctrinated in their current or past profession (such as with counseling or law) that they operate by rote under a paradigm in conflict with the objectives and goals of transformative mediation (Honeyman, 1995; Keltner, 1994; Kolb, 1994). Other people just do not have the mental capacity or flexibility to develop the skills necessary to mediate. The problem is that individuals who have trained usually expect to be successful at mediation. They may have difficulty believing that it is not the fault of the trainer or the mentor that their evaluations are not positive. This is not a good thing for the business of the CDRC.

One reason to encourage the certification of mediators is to improve the standardization of the process of mediation. Through the certification process there can be at least minimal assurances that there will be a consistency in training and quality control of mediators and mediations. Furthermore, the Court encourages and publicizes attendance at continuing educational opportunities through such organizations as Virginia Mediation Network (VMN) which also supports the transformative model of mediation.⁴¹

⁴¹ This support was explicitly evidenced through the sponsorship and publicity of Robert Baruch Bush as the keynote speaker and the “scholar-in-residence” at the VMN 1995 conference.

Assignment of Mediators to a Case

The pairing of a mediator to a particular case is an issue to which some of the CDRCs give considerable attention. This information is addressed in two of the tables. Different CDRCs apply different orientations to this art/science; some CDRCs use whoever is available at the time. The use of a specialist (Table 7) and the criteria for selecting the mediator(s) (Table 9) were both queried. The literature generally disregards the necessity to use a specialist in a particular field or area of concern for a mediation (Keltner, 1994; Folberg and Taylor, 1984). Gender, however, is generally regarded as a distinct issue with regard to communication and mediation styles (Folger and Jones, 1994; Merry, 1994, O'Barr, 1994; Campbell, 1993; Grey, 1992; Tannen, 1990; Carnevale, et al., 1989).

As with most of the information in the Table 9, no particular tendencies or consensus was detected in the area of criteria for assignment to a particular mediation case, although three of the large CDRCs and three of the small CDRCs did use some criteria for selecting the mediators to mediate. Norfolk, for example, grouped mediators in order to optimize its mentorship programs, placing a certified and not-yet-certified mediator together in order to expedite the certification process for the mentoree. Both Harrisonburg and Fredricksburg sought to get a pair of mediators who would complement one another. Several of the CDRCs felt pairing of a male and a female in family mediation cases was essential (Harrisonburg, Charlottesville, and Roanoke).

It was noted that three of the small CDRCs (Charlottesville, Fredricksburg, and Roanoke) and one large CDRC (Fairfax) would look for expertise in their assignments of mediators to a case; this criteria is generally eschewed amongst mediators (Kolb, 1994; Sarat, 1994), especially transformative mediators (Bush and Folger, 1994; Folger and Jones, 1994). As the literature reflects (refer to Chapter II), although there may be extraordinary opportunities which call for a specialist, expertise in a particular specialty or field is not necessarily a virtue to be pursued in

assigning a mediator to a conflict (Bush and Folger, 1994; Folger and Jones, 1994).

Releases

All of the CDRCs have their clients review and sign a letter of release (agreement to mediate) (refer to Table 11). It is as much for the protection of the client as for the CDRCs. With the exception of Staunton, all the CDRCs follow an identical policy of having the clients sign the form during the first mediation session. In Norfolk, every mediation session begins with the signing of a release. Staunton's policy is to have the parties sign the release at the intake session. (Most CDRCs do not have a special intake session.)

Table 11

Releases Summary

| City | When Signed | Mediator Signs | Read Aloud | Explained by Mediator | Copies Given |
|-------------|-------------------|----------------|-------------------|-------------------------|--------------|
| Harrison | before med begins | no | if necessary | by front person | if requested |
| Fairfax | beginning | n/av | decision of med | item by item | yes |
| Norfolk | beginning | yes | prefer paraphrase | item by item | if requested |
| Richmond | beginning | yes | prefer paraphrase | item by item | yes |
| Total Lg. | 3 | 2 yes | needed-paraph | 3+ | if requested |
| Charlottes | beginning | yes | sometimes | sometimes | sometimes |
| Fredrick | beginning | yes | no | highlights | no |
| Roanoke | beginning | yes | yes | item by item | yes |
| Warrenton | beginning | yes | if needed | if illiterate; verbatim | not usually |
| Staunton | at intake | no | no | by intake person | n/av |
| Total Sm | 4 | 4 | 3 | 4 | 3 |
| Grand Total | 7 | 6 | 9 | 7+ | 7 |

There was no consistent policy amongst the different CDRCs with regard to an open reading of the release to the parties. There is a standardization of policy (about the import of a release form being signed before the mediation is to begin) which is consistent across the CDRCs. All CDRCs have made the decision at the administrative level to allow the mediators to choose what they will do with regard to reading the release to the client. The actual choice of option as to whether or not the release form is read/paraphrased/not read and/or explained by the mediator is at the discretion of the mediator. The formalization of the form is consistent across the CDRCs. Although this issue seems to be of small consequence on first glance, the ethics and standards of practice of mediation are established by this release form and it is, therefore, an important issue. It is comforting to note that, on a bottom line issue such as this one, that there is consensus amongst CDRCs.

Volunteers

Volunteers are the backbone of the CDRC. Without the time and talent they donate to the organizations the CDRCs could not afford to offer services. Table 10, the Volunteer Summary, is a blend of information about mediators and volunteers. The last three columns on the right pertain exclusively to volunteer mediators. This combination was appropriate because all of the CDRCs use volunteer mediators (although some do pay their volunteers a stipend or honorarium). The CDRCs could not function without the efforts of their volunteers. Some of the CDRCs use volunteers in a capacity other than as a mediator or an on-site court coordinator for mediation. Warrenton, at the time of the interview, was just about to begin using paid staff. In Warrenton's opinion it was the use of volunteers that had gotten it to the point at which it was presently. Warrenton will occasionally pay its volunteer executive director an honorarium for a special project. On the other hand, Richmond and Staunton have a policy against using mediators as office help. Harrisonburg extensively relies upon student interns from universities (it is located in a college town) as

“fill-ins” for vacant or unfunded positions of responsibility in the office. Fairfax uses its volunteers not only to coordinate court activities on-site but also to pay their office volunteers an honorarium.

The question of just how long a CDRC (or any organization) can count on the volunteer services of an individual is frequently discussed. A sincere word of thanks may not be enough. One of the means of compensating or thanking volunteer mediators is by giving them training. Of all of the CDRCs, only Harrisonburg has training on a regular basis for their volunteer mediators. The trainers used by Harrisonburg are either those who are part of the Harrisonburg staff or they are brought in from the outside. Norfolk reported that they hope to initiate some training for mentoring mediators (and since the interview did so in the fall of 1995). Warrenton and Roanoke both reported sporadic training for volunteers. No particular reason, schedule, or regularly required task was given as a reason for these meetings. Although they are apparently random, they are a positive and valued commodity for the mediators. However, Roanoke does provide training in mediation at no cost to those who are willing to be (and who are accepted as) volunteer mediators for the CDRC.

The number of mediators counted by a CDRC vary not only in actual number, but also in the way in which they are counted. As had happened in several other places in the research, the answers to this question may be more representative of the idiosyncrasies of the particular accounting methods of a CDRC than of real divergence. In this circumstance, some of the CDRCs only count active mediators, that is, those who do a certain number of mediations or attend a set number of training sessions per year (Harrisonburg, Charlottesville, and Fredricksburg). Others, like Fairfax, count everyone on their list of available mediators who live in the area.

While some CDRCs, like Richmond and Harrisonburg, have to turn away volunteers who wish to mediate because they do not meet the CDRCs' standards, other CDRCs are in desperate need of mediators who are available to mediate. Warrenton, for example, offers basic and family

mediation training in order to help build up their volunteer mediator population.

Boundaries

Although the CDRCs are located throughout the Commonwealth, there is still the potential for boundary spanning issues to arise both between the CDRCs and between the CDRCs and their competitors. Table 12 is a summary of the boundary issues with regard to the CDRCs. This subject will become increasingly more of an issue as more mediators leave their CDRC beginnings behind and go into private practices. Each center that trains mediators to mediate must face the reality that these mediators may decide to make mediation their vocation rather than just an avocation. The low entrance fee of approximately \$500-\$700 and minimal requirements for entry to the field as a certified mediator⁴² make competition from other mediators a fact that will increasingly become problematic for the CDRCs. All of the large CDRCs reported issues of competition with other private mediators. Most of the small CDRC did not have competition issues with which to deal.

⁴² The requirements to become certified in a combination of general and family mediation are a 40 hour training class, five family mediations, and two observations.

Table 12

Boundaries Summary

| City | Boundary Issues w/other CDRCs | Compete w/ Private | Have Court Contracts | Have Other Contracts | Compete/ Court Contracts |
|--------------|-------------------------------|--------------------|----------------------|----------------------|--------------------------|
| Harrisonburg | no | yes | yes | no | no |
| Fairfax | some | for training | yes | no | no |
| Norfolk | no | yes | yes | yes | yes |
| Richmond | no | yes | no | yes | no |
| Total Lg. | 3 | 4 | 3 | 2/2 | 3 |
| Charlottes | no | yes | yes | yes | yes |
| Fredrick | yes | yes | yes | n/appl | no |
| Roanoke | no | no | no | no | no |
| Warrenton | no | no | no | no | n/appl |
| Staunton | no | no | n/appl | n/appl | no |
| Total Sm | 4 | 3 | - | 4 | 4 |
| Grand Total | 7 | 6 | 5 | 6 | 7 |

The one area of available work for the CDRCs that is relatively protected is court contract cases. It is economically disadvantageous to any mediator, working on a for-profit basis, to attempt to get cases through the courts because of the system by which the cases are released, the low remuneration, and the opportunity costs. This is not to say that there are not private groups that successfully seek and are awarded these court contracts.

The Supreme Court of the Commonwealth releases payments for court cases through contracts. These contracts may go to any certified mediator or group who bids on them. The contract names a person or their organization as the specified mediators for a particular area. Any

individual referred to mediation by a judge within the jurisdiction of a contract will be granted mediation services at the expense of the Supreme Court at a predetermined rate. If the parties prefer, for some reason, to use another certified mediator, the disputant may do so at his/her own expense. The contracts are generally for a 50 case bundle, with the uncertain expectation of being granted an extension of 50 more cases. In order to most effectively reap these cases, however, usually someone must literally sit at the courthouse ready to evaluate and mediate immediately.

The remuneration for these cases is minimally attractive when considered on an hourly basis. But, taking into consideration that one may be sitting waiting for a case for several hours before *perhaps* getting a case at all, it becomes clear that the fee becomes less and less appropriate as the compensation for the services of a professional. In addition, there is also the problem with funding the contracts. The Supreme Court has been known, since the inception of the program, to run out of funding for the contracts. When there is no contract money, there is no payment for court cases.

Mission Statements

Each of the CDRCs has a mission statement. Table 3 offers a visual comparison of the different mission statements with regard to their written initiatives on transformation, community service, and peace statements. Of the nine CDRCs, five have transformative statements in their mission statements; two of the five (Norfolk and Harrisonburg) are large CDRCs. The three small CDRCs that include a transformative statement are Charlottesville, Fredricksburg, and Roanoke. Three of the CDRCs, two of them large (Harrisonburg and Norfolk; the same as had transformative statements), include peace statements. Staunton includes a peace statement, and it is uncertain if Fredricksburg does, as well. A community service component is included in one large (Harrisonburg) and two small (Staunton and Charlottesville) CDRCs' mission statements. It is

undetermined from the mission statement as to whether or not the Roanoke declaration includes a community service component.

As the literature and the history of ADR reflect, in the United States mediation is an outgrowth of a basic dissatisfaction with the existing system and the hope that there is a better, non-acrimonious way for people to deal with their conflicts. Merry and Milner (1993), Schwartzkoff and Morgan (1982), and Shonholtz (1984) suggest that CDRCs should have a community-service organizational focus that focuses on a community mission. Examples of the types of focus are shown in excerpts from the mission statements listed below.

- Transformative statements:

“...work cooperatively to present conflict and to *transform* conflict into an opportunity for *change and growth* [italics added].” Harrisonburg

“...ultimately our cultural paradigm about violence can also change.”
Norfolk

“...failing to deal with it [conflict] in a constructive manner damages...relationships.” Harrisonburg

“...upholds the dignity of and respect for each individual and develops understanding and mutually acceptable agreements.” Charlottesville

“...to empower individuals to amicably resolve their conflict.”
Fredricksburg.

“to address their *real* concern in a constructive manner...” Roanoke

- Peace statements:

“Conflict resolution provides these abilities, enabling people to face and creatively channel conflict rather than allowing hostilities to build and situations to get out of hand.” Harrisonburg

“...ultimately our cultural paradigm about violence can also change.”
Norfolk

“to promote peaceable conflict resolution.” Staunton

• Community service statements:

“...enabling individuals, families, business, organizations and communities to work...” Harrisonburg

“...makes available to individual and community groups...awareness of the philosophical and practical value to the community of using alternative dispute resolution methods.” Charlottesville

“...educate the public about these alternative methods....goal of the Center is to increase public awareness of and access to alternative methods of conflict resolution.” Roanoke

“...provide mediation services and training to all members of the community...” Staunton

Table 3 combines the mission statements and agreement rates for cases in order to explore the possibility that there is a relationship between the goals of the organization and the agreement rates. There is, however, no apparent relationship between the mission statements' goals and the agreement rates of the CDRCs. One might expect that the agreement rates, in a CDRC committed to the transformative approach to mediation as part of its mission, would have a lower rates of agreement because an agreement, unlike a problem-solving orientation, is not the ultimate goal of mediation (Bush and Folger, 1994, Keltner, 1994; Kolb, 1994). Table 3 illustrates that in Harrisonburg and Richmond, two large CDRCs with opposite indications on the measures of transformative, peace, and community service components of the mission statements of the centers, there are nearly identical agreement rates (90+% and 85-90%, respectively). Charlottesville, Fredricksburg, and Roanoke all have transformative statements in their mission statements, they are all small CDRCs, and they have agreement rates of 90%, 75%, and 75%, respectively.

What can be concluded with some certainty from the examination of the mission statements is that the CDRCs accurately reflect the focus of the organization with regard to community service and peace. However, it can also probably be concluded that the mission statements do not necessarily

reflect the process by which the CDRC conducts its mediations--that is, whether or not the CDRC, as a matter of policy, endorses and supports the use of the transformative method of mediation. The rationale for this latter conclusion is that while well-meaning individuals who are interested in forming the CDRC and supporting it conceptually may have developed a mission statement, these statements

- a) may be old statements which have not been updated;
- b) may be the work of non-mediators who would not know the terminology;
- c) or, may be the product of laymen (versus academicians or theorists) who do not realize the importance or relevance of inserting particular language into the mission statement.

In any case, the information from the agency interviews verified to the author that the CDRCs all pedagogically endorse the transformative processes of mediation as opposed to a more directive process.⁴³ The confirmation of the actual use of the transformative process must be left to the analysis of the mediation case studies that follow.

While there seems to be tacit support for the transformative approach, there are those who would argue that diversity in the practice (processes) of mediation is positive and enviable. Others in the field would proffer standardization as an objective of the professional development of the field. The Supreme Court appears to support a middle ground. There are required ethics and minimum performance standards; however, there is considerable latitude and flexibility in the quality control of those

⁴³ Coincidentally, the one CDRC about whose mediation process the author was unable to form solid conclusions, was also the one CDRC which could not provide the author with a mediated case. It is also one of the two CDRCs that has a business manager as the executive director. The combination of these bits of information make it impossible to include Richmond as certainly supporting and utilizing transformative mediation processes as their means of mediation. There is nothing to indicate, however, that, as part of the Coalition, they would not follow the suit of the rest of the Coalition members and their philosophy.

training, mentoring, and mediating in and out of the auspices of the certification of the Supreme Court.

Processes

Mediation case studies provide the necessary insight to analyze the processes applied by the CDRCs. No matter how a mission statement is worded, regardless of the amount of training a mediator receives, the bottom line is still how they “do” mediation. (In Figure 1 there is a complete process outline of a mediation.) The methodology for the collection of the mediation case studies was described in Chapter III.

A significant and recurring problem that was encountered during the data collection phase of the project was the question of the assurance of confidentiality given to the CDRCs and their mediators. Several of the CDRC had more than a ephemeral and perfunctory concern for their commitment to maintain the confidentiality of their clients. In every case the researcher was able to assuage the case presenter and/or the president or director, and the data was collected. One CDRC has a standing policy categorically prohibiting providing mediation case material for research. The explanation was that the policy developed as a reaction to some prior unfortunate experiences with research efforts.

The gathered data reflects diverse rates of agreement. There are marked variations in the Fairfax and Charlottesville rates in arriving at agreements (Fairfax is inordinately low in comparison to the other CDRCs; Charlottesville is low in comparison to the small CDRCs, and more in line with the large CDRCs). No reason emerged from the more predictable sources of data. For example, neither the number of mediations performed, nor the mission statements, gave any consistent indication as to why these extravagant rates would occur. Discerning that which constitutes an agreement in each of the CDRCs could be one area that could help to explain the differences in rates.

Applying the Transformative Model

As mentioned in the literature review, the researcher's process model of the transformative approach to mediation was developed based upon the work of Christopher W. Moore (1989) and Folger and Bush (1994). This model has been applied to transformative mediations of many different kinds. With esoteric variations, the model works well with domestic, business, landlord-tenant, and neighborhood disputes. The author found the model to apply to all the cases reviewed. This model was used as a background for the researched case studies.

The CDRC are extraordinarily similar in one way: the process of mediation to which they subscribe. All of the CDRC subscribe to a dual mediation model following the philosophy and guidelines of Folger and Bush's sensitivities.

Mediation Evaluations

"Too many people are now doing 'what *they* call mediation.'"
(Sarat, 1994, p. 196).

Case Study 1

Lottie and Lewis had cohabited for approximately 18 months. Their relationship spanned about a two year period. As a result of their liaison Lottie had two children ages 3 and 4. Lewis had rarely seen the children although they lived within just a few miles of him.

Both parties had been using drugs and alcohol during most of the relationship. Lottie was suing Lewis for child support payments. The courts referred the case for a mediation evaluation.

Lottie and Lewis came separately. Lewis was accompanied by a female friend of the family. As they were escorted to the mediation room, it was obvious that something was wrong with Lewis. He could neither walk

straight nor could he talk clearly. His eyes wandered. The two co-mediators began the session by making introductory remarks to the parties about mediation. They then read the consent form and paraphrased it. They suspected that Lewis was having a hard time staying focused. His eyes drooped. The consent form was signed and the parties were asked to tell their story. The ground rules were reviewed and accepted.

Lottie went first and told of their relationship and of an accident that Lewis had been in while incarcerated in jail. He was viciously attacked by a large group of inmates upon his arrival. His injuries were so severe that almost two years later he was still in rehabilitation. Lewis was being released from rehabilitation because it was of no further help to him. He had obvious and extensive damage to small and gross motor abilities, balance, cognitive processing, short and long term memory, sight and depth perception, etc. He tired very easily and also was prone to seizures. He had picked up cash whenever he needed it at a profession which required small motor skills. That profession and apparently all others were no longer possible. Lewis was on 100% disability. Lottie had filed this suit before Lewis was sent to jail.

Lewis told his story after the mediators reflected upon Lottie's comments. They thanked the parties for their cooperation with the rules and their patience. It was difficult to understand Lewis; he slurred his words and many of his sentences did not make sense. He was nodding off a bit. He spoke without any emotion except when he spoke about his current diminished capacity. Until Lewis' release after his coma (eight months) he had no money for child support. Lottie was asking now because she knew that there was money coming in every month. Unfortunately the money was helping to pay his mother's rent (he now had to reside with someone who could care for him). She also was no longer able to work full time because of Lewis' needs. He said there was no money left over because of medicines and bills.

Lottie and Lewis went back and forth just a bit about the sum of money. The mediators were unsure as to whether disability payments were

included in the income formula the state provided. They asked for a break to get an authoritative opinion. They used this excuse to have a confidential discussion about Lewis' capacity. The lead mediator (the other was a lawyer being mentored) felt strongly that it was wrong to continue the mediation with Lewis because he so clearly had diminished capacity. The other mediator didn't feel it was the right of the mediator to intervene and decide about diminished capacity. Neither mediator thought that Lewis was "dealing with a full deck." The mentoree insisted on continuing. The other mediator capitulated with great reservation. Two conditions were added by the lead mediator. If he felt it necessary, he could require an informal guardian *ad litem* be present at the mediation as long as both parties agreed. Also, they would check with the courts as to their understanding of Lewis' capacity. If they understood his problem and still referred it to mediation, then the mediation would proceed. However, if they were not aware of his problems, then the mediators would err on the side of the conservative and send the case back to court for a determination.

The lead mediator also suspected that there could be a dramatic change in Lewis' financial picture in the near future. His court case against the jail administrators, city, etc. was going to trial soon. In fairness to the children the mediators felt that it would be better to wait to decide the case until after the settlement. They did not say anything to Lottie about this.

Upon their return to the mediation Lewis was found dozing. Lottie spoke candidly with the mediators while Lewis was asleep in the room. She said that she thought it only fair that he help her raise the children, at least financially. She said she had never asked for money when he didn't have any, but now he did. She said that before the beating Lewis had questioned her claim of his paternity. They disagreed over a blood test done without his permission; it favored Lottie's assertion of Lewis' paternity. While he was in the hospital, they had drawn blood for the test without his consent. He (and his mother on his behalf) denied the legitimacy of the results as well as its legality.

Lewis awakened after a few more minutes and said he was too tired to continue. Everyone agreed upon another date for the next session. The lead mediator stated that in order for the mediation to progress he thought that Lewis needed an advocate present to assist him and the mediators with information and decision making. His mother has power of attorney for him. Everyone agreed that she would be acceptable. They set a date with the understanding that the friend who brought Lewis would check with his mother and contact the CDRC.

The case was sent back to court because of the judge's impending return date. The mediator told both Lottie and Lewis' escort that they could return on their own at any time. The second session never occurred.

Assessment

| M O V E | DESCRIPTION ⁴⁴ | YES/ NO |
|------------------|---|------------|
| - | Judge ordered the case to mediation | |
| 1 | Introduce transformative mediation | yes |
| 2 | Ground rules explained. | yes |
| 3 | Parties agree to mediate | yes |
| 4 | Storytelling by both parties commenced. | yes |
| 5 | Probing the history of the situation | yes |
| 6 | Probing to elicit a party's views of self and other and surface opportunities for recognition | yes |
| 7 | Offering possible reinterpretations of the other party's behavior to evoke recognition | yes |
| 8 | Caucus to discuss Lewis' diminished capacity | yes |
| 9 | Allowing parties alternating opportunities to control discussion of options | yes |
| | Examining options of both parties | yes |
| 10 | Evaluation/Choice of options in mediators' hands | no |

⁴⁴ The wording and phraseology included in this analysis has been, in many cases, taken directly from the work of the Bush and Folger (1994, p. 140).

Based upon the evaluation this mediation, although providing for only limited recognition, is transformative. The micro assessment of the moves of the parties is transformative. The mediators did take every opportunities to provide occasions to empower and to be empowered. Those openings were extremely limited by the circumstances of Lewis' disability. The mediators were stymied by the situation and the clear imbalance, and in the lead mediator's opinion, inappropriateness of allowing Lewis to negotiate on his own behalf. Lewis was assessed by the lead mediator to be too severely impaired to have any appreciation for a recognition of any of the comments of Lottie or the mediators. The mediators did acknowledge Lottie's comments.

On the second criteria, the mediation again meets the standard. The deliberation of the available options were explored with Lottie, and even with Lewis. Lewis could not track the conversation adequately. The decision to have a surrogate negotiator for Lewis was agreed upon. It was the suggestion of the mediators as an advocacy issue to balance the power. The decision was made, however, by the parties (Lottie). Had Lottie not agreed to the representative, the lead mediator would not have continued the mediation.

The last element, understanding the other person's perspective, was attempted by Lewis and the mediators with Lottie. Lottie did not hear Lewis for she did not take him seriously at this point in time. Lewis felt as if he had been violated by Lottie and others when they had drawn blood for a paternity test while he was comatose. Furthermore, he felt that the results of the test were at least questionable and he would not rely upon them without challenge. Lottie wanted Lewis to know that regardless of his financial plight (with regard to his mother having to quit work to help care and transport Lewis), her children were his children, too. She deserved some of what he was receiving to help with their care. Lewis could not focus on or acknowledge what she was saying, even with the reflection of the mediators. Regardless of the outcome, the mediators attempted to perform in a transformative fashion in this abrogated mediation.

Case Study 2

The initiator, Albert, was a plumber who had done work for a couple, Alice and Joe, who both had executive/professional careers. The case had been referred by the court. The parties had filed counter suits and another set of counter suits was about to be filed. The plumber had begun the adjudication-go-round by filing an action seeking compensation for the balance of payments for work he had done on the couple's home.

Although the judge ordered the case to mediation for evaluation, the respondents were not interested in participating. It took over two hours of conciliation work on the part of the intake worker to get them to agree to mediation. They were also made aware, by the intake worker, that Albert intended to file a lien against their house (which was on the market and could not be sold without satisfaction of the lien) if they did not come to the mediation table. It was this threat that motivated them to come to the Center. The couple was told that they would only be allowed to have one spokesperson and they decided that that person should be Joe because he had never really interacted with the plumber before and they shared no history. Alice had overtly insulted Albert while he was working for her. Albert was a quiet person. His communication skills were not very good. He was a poor match for either Joe or Alice; this was obvious to everyone. For most of the mediation Joe was very appropriate and controlled. At the same time, Albert was quite agitated; at times he used profanity and raised his voice.

Albert had been fired midway through the job because Joe and Alice were frustrated by his lack of attention to what they considered important details. Albert maintained that he did a good job and that his work is guaranteed. He felt that if he hadn't been fired Alice would have been very pleased with the end result. Alice had paid Albert \$200 of a \$500 contract and then hired someone else to redo part of the job. In the end, Alice and Joe paid over \$650 for the work to be completed. They were seeking \$650 plus \$350 in damages.

All the parties had, during the course of the introduction explaining transformative mediation, been asked if first names would be o.k. Everyone nodded favorably. However, throughout the entire mediation Albert called the other party “Mr.” and “Mrs.” Everyone else used first names.

After some initial storytelling, reframing, etc., Albert and the couple volleyed stories back and forth. The review included escalating details of past events. The tension was increasingly high. The communications--disparity became an increasingly frustrating situation for Albert. Finally, in a fit of frustration Albert pushed away from the table and left the room. He only went as far as the front of the building and he then lit up a cigarette. The lead mediator followed him out to find out if there was some available resolution. In the meantime, the co-mediator spoke to the respondent about BATNA.

Albert did come back into the mediation, he was obviously frustrated and was using profanity. The mediators continued with the mediation after thanking the parties for their patience. Just a minute into the discussion, the mediator “heard” Joe, and interpreted his statement by saying, “Do you hear that they [Alice and Joe] are frustrated with not being respected? Do you think that there is something that you can do about that?” That opened up the entire topic as to the parties’ mutual awareness of respect. Alice and Joe suddenly realized that they had not been sensitive to the professionalism and respect that “even a plumber” deserved. Negotiations went very slowly, but steadily, for three hours. The couple made a breakthrough offer after the Albert had had enough and called the mediation off. Albert began to leave the room. They realized that there was a price by acting foolishly and bothering the plumber (by questioning his professionalism). They had still been in the position of wanting the plumber to pay damages to them before this point. Now they were suddenly offering to give the plumber a cash settlement. They asked the plumber what he wanted. He said it was a matter of being able to resolve in his mind that he had been treated like a professional. For that all that he needed to do was cover his actual out of pocket costs plus one dollar. That was the agreement.

The written agreement reflected the regret of behavior by Joe and Alice. Also it mentioned that Albert was a professional plumber who always did quality work. All actions, present and future, were dropped. A cash payment was made on the spot. All the parties shook hands at the end of the mediation.

Assessment

| M O V E | DESCRIPTION | YES/ NO |
|------------------|--|------------|
| 1 | Intake person took almost two hours to get respondent to agree to come to mediation. Coercion was used in the form of a threat from initiator. | no |
| 2 | Told respondent that only one of the two of them would be allowed to speak | no |
| 3 | Allowed party to choose who would speak | yes |
| 4 | Defining mediation as transformative | yes |
| 5 | Parties allowed choice in accepting ground rules | yes |
| 6 | Storytelling: including probe of past events to get past views of other | yes |
| 7 | Allowing parties to change ground rules (both respondents speak) | yes |
| 8 | Providing an inclusive summary of the parties' concerns | yes |
| 9 | Caucus to provide and explore choices for BATNA | yes |
| 10 | Probing to elicit a party' views of self and other and surface opportunities for recognition | yes |
| 11 | Allowing parties to vent by expressing views of past interactions | yes |
| 12 | Offering possible reinterpretations of the other party's behavior to evoke recognition | yes |
| 13 | Facilitate parties' negotiations | yes |
| 14 | Allowing parties alternating opportunities to control discussion of options | yes |

| M O V E | DESCRIPTION | YES/ NO |
|----------------------------|--|--------------------|
| 15 | Translating options without directing discussion | yes |
| 16 | Using silence to allow parties to explore more options | yes |
| 17 | Preserving recognition in the face of impasse | yes |
| 18 | Preserving empowerment in the face of impasse | yes |
| 19 | Allowing parties to hurdle impasse and negotiate agreement | yes |
| 20 | Recording the parties' agreement | yes |

Based upon the evaluation, this mediation is transformative. There was an initial problem with the intake person facilitating a questionably coercive conciliation but in the final assessment the offers and choices were those of the parties. The threat of adjudication was only to be used if there was no mediation. The micro assessment of the moves of the parties is transformative. The mediators did take every chance to provide opportunities to empower and to be empowered. A key turning point in the mediation was when the initiator was heard (by the mediator) to be in need of recognition as a professional and thus due respect. The overt disparity in the parties' abilities to communicate had been reiterated in their manners and their style of dress; everything about each of the parties gave an accurate statement about their socio-economic and educational status. Both the parties and the mediators were aware of this situation. The problem was that this disparity was being carried over into a lack of respect for the initiator's professionalism. He may have been a plumber but he was a good, honest, knowledgeable, and professional plumber. He needed to be recognized as such, especially because when he had worked for the couple they were constantly second-guessing his professional decisions. Although there were not many opportunities to empower the couple, the mediator managed to do so, as well.

The second criteria has to do with the deliberation of available options. The negotiation portion of the mediation, which wore on for over three hours, definitely gave the parties the opportunity to consider alternatives. There were originally two cases pending in general district court (one from each party against the other). There was the threat of two more actions being filed (one more from each party against the other). The parties were allowed to negotiate back and forth for hours, working out a settlement. Throughout this entire period, the mediators allowed the parties to press on despite that fact that each party was still locked into the idea that the other party was wrong and needed to provide compensation. It was not until the initiator finally declared the end of his patience (and the session) that the respondent decided to make the necessary move to end the

mediation. Through the mediation, the couple had come to realize that they had been disrespectful of the plumber and his expertise and that they had probably precipitated the problems which led to their conflict.

Were it not for the patience of the lead mediator, the third matter of evidence for a transformative mediation could not have taken place. The mediator gave the process a very long time so that the parties could explore the entire gamut of possibilities without the mediator directing them. The retelling of the circumstances of the experience leading to being fired was an excellent opportunity for the respondents to re-examine their behavior and see the errors they committed. Also, the initiator was a good person, but he was outmatched verbally and intellectually by the respondents. The mediators were able to help him by allowing him to vent using some questionable language. The wife-respondent replied in kind. This reaction on her part was empowering because it provided an opportunity for recognition of how hard it is to function when someone is annoying you, and how easy it is to lose one's temper. This brought recognition on the respondents' part as to their errors. The settlement acknowledged both parties' needs and perspectives.

Case Study 3

This was a court-referred case. It took a great deal of work to get the case to mediation. The case involved two brothers (12 and 16 years old) who shot, for sheer vandalism, 22 rounds from a semi-automatic weapon, from their attic into a neighbor's home. They had no malice.

The juveniles were living in a severely dysfunctional family situation. The neighbor, Mrs. A, brought the action because of her fear of living next to this family. They lived in an all white, blue-collar neighborhood. The respondent's family was bringing an unsavory element into the neighborhood. The boys were general "bad news." The case was a "large swamp, big alligator" problem.

The boys were accompanied by their mother, who was intellectually disabled. The grandparents had custody of the boys even though they all lived together. The boys were not cooperative. They never demonstrated any commitment to any proposal. Neither the grandmother nor the mother was able to control the boys. Mrs. A (the plaintiff), in every way the antithesis of the respondents, really wanted to resolve the entire situation. The operational items she identified were: replacement of the windows the boys shot out; ridding the area of loitering, unsavory characters (reputedly dealing drugs); cleaning up outside of the house; cats, trash, lawn, loud music, etc. The boys were diverted from the courts; the alternative to working out an agreement in mediation was to have the boys go to a detention facility. (They had both previously been in detention.) The defendants' mother was very unhappy and abusive to the mediators. The boys were always respectful of the mediators and Mrs. A. They addressed the extra-family members by "Mr." and "Mrs." The mediators did not focus on the shooting; they realized that what was needed was a change in lifestyle. A total of 15 hours were spent on the case in four separate sessions.

The boys agreed to mediate. They were accompanied by their mother and their grandmother for the mediations. Interestingly, Mrs. A liked the boys and the family and did not want a bad result to come to them. However, not only were the boys endangering her and her family, the entire neighborhood was being affected.

The mediation proceeded well; at no point were the disputants (Mrs. A and the boys) disparaging toward one another. The mediation was an opportunity for the boys and their family to understand the interests of the Mrs. A. They had no ill intent toward Mrs. A. Mrs. A wanted the situation improved. She had problems operationalizing exactly how that was to be done. The mediators and the parties worked together to lay out specifics on how that was to be implemented. The original agreement included things that fell upon the mother and grandmother to implement. The final agreement, however, put the onus of the changes upon the family. It

focused the responsibility onto the family, not upon Mrs. A. If there were any problem with a visiting friend, then the family had the obligation to call the police. The boys also had to pay for and install the new window by a certain date. They had to earn the money to replace the window.

The agreement did not hold. In the end none of the elements were enforced by the grandparents or the mother. Every identified problem got worse. Mrs. A wrote to the judge asking for his help. The case was under advisement for a one year period. A final disposition had not been made yet. Mrs. A could, of course, take the family to court under a breach of contract.

Assessment

| M O V E | DESCRIPTION | YES /NO |
|----------------------------|---|--------------------|
| 1 | The boys were not cooperative, it took a lot of convincing to get them to come to mediation at all. They were reminded that the alternative was juvenile detention. | no |
| 2 | Storytelling: including probe of past events to get past views of other | yes |
| 3 | Focus parties on the real issues as discerned by the mediators | no |
| 4 | Providing an inclusive summary of the parties' concerns | yes |
| 5 | Allowing parties to decide on commitment to ground rules | yes |
| 6 | Probing to elicit a party's views of self and other and surface opportunities for recognition | yes |
| 7 | Offering possible reinterpretations of the other party's behavior to evoke recognition | yes |
| 8 | Failing to pursue issues a party raises | no |
| 9 | Allowing parties alternating opportunities to control discussion of options | yes |
| 10 | Reinterpreting the options the parties have agreed upon | no |
| 11 | Evaluation/Choice of options in mediators' hands | no |
| 12 | Reinforcing benefits of a mediated agreement | no |

| M O V E | DESCRIPTION | YES /NO |
|------------------|---|------------|
| 13 | Preserving recognition in the face of impasse | yes |
| 14 | Preserving empowerment in the face of impasse | yes |
| 15 | Recording the parties' agreement | yes |

This mediation, although providing for recognition, is not transformative. The micro assessment of the moves of the parties is very clearly non-transformative. The mediators did take every opportunity to provide opportunities to empower and to be empowered. The boys showed no respect for their mother or grandparents, however. In order for the family to take responsibility for carrying out the agreement the entire family was going to have to have some transformation. There was no evidence of any movement or attention to the need for movement on the intra-family relationships. This responsibility was superimposed by the mediators. The support of choice-making and deliberation by the parties was also wanting. The mediators, for example, had to use the threat of incarceration with the boys in order to even get them to the mediation. Also, the mediators changed the arrangement for the action from being the responsibility of the boys to being the responsibility of the family. The grandparents had the agreement thrust upon them. There was no opportunity for them to have meaningful input. The grandfather was not present at any of the mediation sessions. From the onset the boys showed no commitment to the process or proposals. The mediator had an obligation to explore their feelings and follow their clear message that this proposal was not realistic for them. Last, there seemed to be at least a one-way perspective exchange. The boys did not know, prior to the mediation, that Mrs. A meant them no ill will. They also did not understand the nature of her concern for their behavior. Mrs. A, on the other hand, did gain some more insight into the

dysfunctionality of the boys' family life. Her sympathy for the boys and tolerance for the situation was reinforced.

The epilogue to this conflict is that not any part of the agreement was ever observed. Mrs. A spent exactly one year patiently trying to "do the best thing" for the boys. Out of complete frustration after a year of repeated and escalating events Mrs. A went back to the judge and asked to have his initial determination instituted. The boys were to be incarcerated.

Case Study 4

Sam and Judy had been together for more than ten years. Their marriage had broken up. They had worked extensively with attorneys; it was their attorneys who had referred them to mediation to "finish up" a couple of loose ends. Sam had a new "cheerleader" friend who was supporting him emotionally. Judy asserted that she was more than just a friend. Sam had been a *de facto* father to Judy's teenage boys. This marriage was the second for both Sam and Judy.

The intake worker had given the mediators a firm list of the limited issues the disputants agreed they needed to settle. The couple presented two issues: business funds and records and house payments. The couple had worked together to create and build up a successful business for the last ten years. They brought with them the "90th draft" from their attorney.

Judy had pathetic body language; she was bent, slouching, and slow to move and speak. She spoke quietly and haltingly. Sam was neat, organized, confident, erect and spoke with great authority.

After initial introductions the mediators discussed the release form. Everyone was asked if they understood. When it was circulated for signing Judy flatly refused. She would not discuss it. The mediators took the disputants into caucus individually and spoke to them about this. Judy was reminded that her attorney endorsed this process for her and had no problem with her signing the form. She refused. She never made eye contact. Although uncomfortable, everyone agreed to proceed without her

signature. Judy cried almost without a break throughout the entire session. Sam looked unaffected or perhaps a bit annoyed by her pathos.

Each party was asked to tell his/her story and the mediators did reflection and confirmation type statements. The issues they spoke of in their stories did not reflect the material they gave the intake worker. It became clear that although both parties insisted they only wanted to deal with the previously identified issues, that the issues of control over Judy's life and regularly visiting the boys were essential. At one time or another in the mediation each of the disputants suggested that the boys be brought in to be part of the action.

Sam had established savings accounts for Judy's children. He wanted to continue to control those accounts on the boys' behalf. He also wanted a regular and liberal visitation schedule. Judy asserted she was unaffected by anything having to do with Sam. She did not care about his "needs." Both disputants were very stuck on their positions. The mediators attempted to get them to identify their interests. They refused. The mediators assigned homework to the couple. Each were to establish a plan for the division and implementation of their objectives. The hope was that they would realize that they had other issues with which to deal. What they were showing was that Judy was feeling powerless and as if she had failed, not just in two marriages (for which she was very embarrassed), but also in her ability to make wise choices. Sam still wanted control over Judy, and although he truly wanted to be with the boys on a regular and frequent schedule, he also wanted to be in command of Judy's life.

Session #2: Judy and Sam still presented themselves as before. Judy was seeing a therapist as the mediators had recommended. She said she thought it was helping. They both brought in their homework. It reflected their true concerns. The mediators began working with them to identify their interests rather than their positions. Judy was still crying a great deal. The mediators allowed Judy to freely vent at Sam and her situation for a while without interruption. Sam softened a bit at seeing and hearing her pain. Judy seemed to feel much better. The mediators acknowledged her

plight and her fears. Both parties agreed to expand the agenda. Judy was fully prepared to give in to Sam on the financial issues of the business. Sam wouldn't agree. He wanted the other issues, all of them, as well. Judy tried to bring up Sam's new "cheerleader" friend, Trudy. Trudy was now the person telling Sam that he was great. Judy knew Sam needed this type of person. She had once been this type of person to him before he moved on. Sam always seemed to need more lauding, and apparently "burned out" his supporters.

They were given more homework to work out a viable plan on all issues with interest based objectives.

Session #3: Judy looked entirely different: erect and composed. This shook Sam. Sam presented his plan and in a defining moment, the mediator said to Sam, "It seems as though your relationship with the boys means a great deal to you." Sam began to cry quietly. Everything changed. Judy took the lead. She said she no longer cared about a list of things at which she had previously balked. She said that she was in control of her own life and that she didn't have to worry about being under Sam's control because she *wasn't* under his control.

They quickly wound up the arrangements. They signed the agreement. They both thanked the mediators. Judy left obviously felt liberated. Sam left definitely ruffled and a bit shaken. He had gotten everything he had asked for except for some disputed files which he said Judy had in her garage. She stood up to him and said, defiantly, that she didn't have them, "...PERIOD." They filled out evaluations. The mediators invited them back if they ever needed help.

Assessment

| M O V E | DESCRIPTION | YES /NO |
|----------------------------|---|--------------------|
| 1 | Parties set the agenda with the intake worker. | no |
| 2 | One party refused to sign release form without any reason | |
| 3 | Mediators caucus; proceeded with mediation. | yes |
| 4 | Judy vented emotions. Opportunity for acknowledgment. | yes |
| 5 | Probing to elicit a party's views of self and other and surface opportunities for recognition | yes |
| 6 | Providing an inclusive summary of the parties' concerns | yes |
| 7 | Highlighting parties identified concerns vs. real concerns | yes |
| 8 | Offering possible reinterpretations of the both party's behavior to evoke recognition | yes |
| 9 | Allowing parties alternating opportunities to control discussion of options | yes |
| 10 | Disputants both expressed desire to have boys in session; ignored | no |
| 11 | Reinterpreting the options the parties have agreed upon | yes |
| 12 | Preserving recognition in the face of impasse | |
| 13 | Evaluation/Choice of options in disputants hands (homework) | yes |
| 14 | Allowed Judy to vent openly | yes |
| 15 | Recognition of emotions translated | yes |
| 16 | Preserving empowerment in the face of impasse | |
| 17 | Assigned homework to disputant for them to identify their direction | yes |
| 18 | Judy recognition impacts; emerges empowered; takes lead in generating agreement | yes |
| 19 | Choices reflected in parties' choices. | yes |
| 20 | Recording the parties' agreement. | yes |

Based upon the evaluation, this mediation is transformative. The micro assessment of the moves of the parties is very clearly transformative. The mediators did take every opportunity to provide opportunities to empower and to be empowered. From the beginning, the mediators used the parties' expressions as the basis of their facilitation. They found opportunities for recognition and empowerment that truly transformed Judy and allowed her to take over the control of her situation and let go of the pseudo-issues she needed as a crutch. As for Sam, he was forced, by Judy, to recognize that he was trying to control her life; this was unacceptable now.

The mediators were perceptive enough to see through the ruse of the stated issues (positions) of the parties. Still, when the parties held onto these positions despite the mediators' efforts to transcend them, the mediators allowed the parties to own their own process. Instead, the impasse was bridged by a clarifying exercise (homework). This exercise gave the parties an opportunity to reflect on what their interests were without the distraction of the other party. This technique was used twice, to different ends each time.

The third element of transformative mediation is met in this case by the mediators allowing Judy to vent her emotions. The first time this had no apparent affect on Sam; the second time he was softened. Judy was able to see what she was to Sam and why he always was going to need to have a new Judy (this one was Trudy) as well. Both parties realized (although did not necessarily accept) that the agenda they thought they had was different than their real agendas.

Case Study 5

This dispute involved a consumer-business transaction about a motor home. The file on this case was very extensive because of the many canceled sessions and the multiple parties involved. An attorney had been engaged

by the initiator, Mr. A. It was only with the threat of impending litigation that the respondent, Mr. B, finally was true to his word and came to the mediation table.

As surprised as Mr. A, was that Mr. B actually showed up, he was very cautious about any possibility of a successful mediation. Because the business had a mediation clause in its contracts, the CDRC felt compelled to make this last attempt at a mediated end. Because the CDRC had worked so hard to resolve this matter for the initiator, Mr. A actually felt ashamed not to try mediation. Introductions were made. Even while in the mediation session, Mr. B was actually coerced into participating by reminding him that his company had a contractual obligation to mediate. He reminded everyone that he was only the representative of the owner of the company.

Mediation was explained. Because the CDRC had promised Mr. A that they would put "one of their best mediators on it," the mediators stated their impressive credentials. They also indicated that there was a strong likelihood of coming to agreement. Questions by the parties were requested and encouraged. The first mediator complimented their questions and bravery to ask questions. The second mediator was shaken by Mr. A's attorney's presence and was functioning in a diminished capacity throughout the mediation.

The actual respondent, Mr. Z, had sent his agent, Mr. B. Mr. B had been Mr. A's contact person for almost a year. The relationship between Mr. B and his employer, Mr. Z had actually been terminated as of the mediation. Mr. Z had permitted Mr. B the chance to try to negotiate a way out of the situation. Mr. B and Mr. Z would benefit from any negotiation. In a way, Mr. B was acting on his own behalf. However, Mr. B was equivocal about his ability to effect a negotiated outcome. All of this made the situation confused. The ground rules were reviewed. There was an agreement to mediate.

Storytelling commenced, with Mr. A going first. His presentation was a very detailed account of the history of the motor home situation. Questions about the facts were asked. Reflection ensued. The stories were

dramatically contradictory. Repeatedly, Mr. B tried to get the mediators to tell him what he had to do to end the negotiations. Mr. B clearly thought that this was going to be an arbitration. The lead mediator stopped the mediation process. She said she thought that perhaps there was some misunderstanding as to what their role as mediators was and that she would like to explain it once again. She encouraged the parties to ask as many questions as they would like. She asked if they now understood. Both parties nodded.

Mr. A, upon hearing Mr. B's story, began to get up to leave. He was complaining that he was not going to listen to a "pack of lies like this." The lead mediator (the trainee was virtually paralyzed by the situation at this point, and had shut down) suggested that this would be a good time to take a break. The mediators conferred. The trainee was encouraged to participate.

The parties were brought back together. The mediator suggested it might be a good idea to write the events down to achieve some clarity. She began to write down the events by going back and forth between the parties. It became apparent that Mr. B's story was a lot of double talk. He knew that everyone now knew it too. The mediator dramatically put down the marker, left the flip chart where she was writing and asked the assemblage if this historic review was necessary or productive. The parties and the attorney looked at each other and they all immediately agreed that this was not a productive enterprise.

The mediator asked if they would like to proceed in finding a resolution. Mr. A said that all he wanted to do was to get this whole thing over with. He only wanted to get his case settled. Mr. A said that he only wanted the motor home fixed and returned. He wasn't interested in anything else. Mr. A, at this point, had limited the mediation and the entire area of punitive damages (which Mr. B and Mr. Z were obviously most worried about) was eliminated from the mediation.

The mediation proceeded with a discussion of the specifics of the return of the motor home. Mr. A was most concerned about his wife's reaction to all of the delays and money spent. Mr. and Mrs. A had been

making payments on the motor home for over a year and had never been able to use it because Mr. Z's company hadn't fixed it. Mr. A said his marriage was suffering; they had already missed one year's vacation and were soon to miss another. They hadn't seen their children's family in two years because they were making the payments on the motor home and couldn't afford to get to them any other way now. The mediators reflected that this situation was not just about a R.V. and that it was much bigger. Mr. A agreed.

For the first time, Mr. B seemed to really soften. He realized what the impact of the unethical practices of his company were and was very sad. He leaned over to Mr. A and sincerely said he was sorry. He tried to shake hands with Mr. A. Mr. A was very reluctant, even though there was no sign of anger on his part, to shake Mr. B's hand. Mr. A would not look at Mr. B when they shook.

A whole new type of behavior was now displayed by Mr. B. He revealed that he had a lot invested in closing this deal in the next few hours. (The window of opportunity for a contingent deal would close out by then.) He began trying to help Mr. A get what he wanted out of the mediation. Many of the things that Mr. B had balked at before, he now offered openhandedly. The mediators reflected upon this change and thanked Mr. B for his cooperation.

Mr. B eventually called Mr. Z and told him what the negotiated deal was to be. He came back and said that he could sign an agreement based upon the negotiation. The mediators worked back and forth to arrange for an inclusive agreement. All the parties seemed satisfied. The parties signed, shook hands, and went their own ways.

Assessment

| M O V E | DESCRIPTION | YES /NO |
|------------------|-------------|------------|
|------------------|-------------|------------|

| M O V E | DESCRIPTION | YES /NO |
|------------------|---|------------|
| 1 | Introductions were made, permission to use first names was requested and given. | yes |
| 2 | Mr. B was obtuse and secretive about his ability and interest in mediating an agreement and his ability to negotiate on his boss's behalf. Mediators coerced him by reminding him of his contractual agreement. | no |
| 3 | Mediation was explained. Ground rules reviewed. Agreement to mediate was signed. | yes |
| 4 | Storytelling commenced. Mr. A told a detailed history of dispute. Reflection was used. | yes |
| 5 | Mr. B tells completely different story. Mediators reflect. | yes |
| 6 | Re-explain the role of a mediator. | yes |
| 7 | Mr. A tries to leave. Mediators call for break | yes |
| 8 | Mediators acknowledge Mr. A's frustration with disparities | yes |
| 9 | Mediators try to reconcile different stories | no |
| 10 | Ask parties to clarify their agenda | yes |
| 11 | Providing an inclusive summary of the parties' concerns | yes |
| 12 | Highlighting parties' identified concerns vs. real concerns | yes |
| 13 | Change direction to reflect interests of parties | yes |
| 14 | Acknowledge offers of support | yes |
| 15 | Allowing parties alternating opportunities to control discussion of options | yes |
| 16 | Allow parties to eliminate issues on their agenda | yes |
| 17 | Encourage parties to find alternatives to impasses | yes |
| 18 | Acknowledge change in attitude | yes |
| 19 | Enumerate agreement points | yes |
| 20 | Sign agreement | yes |

Based upon the evaluation this mediation is transformative. The micro assessment of the moves of the parties is undeniably transformative. The mediators did take every opportunity to provide opportunities to empower and to be empowered.

The choice-making by the parties was completely supported by the mediator. Although the process of mediation generally calls for some back and forth discussion to clarify the issues and understand the storytelling, it is rarely objective. The mediators threw out the typical way of proceeding for the parties' agendas. The mediators did have to coerce the parties to mediate in good faith, but that was considered by the researcher as a reality check.

The change in perspective came when Mr. B realized the ramifications of his company's and his behaviors. Until Mr. B could hear Mr. A's story and concerns, there was to be no change in Mr. B's typical behaviors and attitudes. This is one of the hallmarks of transformative mediation.

Case Study 6

This case was referred to the center by a school guidance counselor because of truancy. The counselor wanted the teen to voluntarily come to school regularly. The case involved a teen and her mother. There was no background information given. The mediators were very experienced in dealing with teens.

The case was very complicated and isolating the one issue of truancy was not possible. The mother and daughter clearly had other issues that were to be dealt with. The truancy was just a symptom of the problem. On the way to the mediation (they came separately) the mother had decided (but had told no one) that the outcome was going to be "either ___ or ___." She never wavered from that decision throughout the mediation. She never gave the mediation a chance to work.

Not only had this mid-teen (Tina) been truant, but she also had been a chronic runaway. She was also in the second trimester of a pregnancy. Mom did know about the pregnancy and had attempted to discuss alternatives. Tina wanted to keep the baby. Her mother claimed that Tina did not know with any certainty the paternity of the child. Although drugs probably did cause Tina to have real questions of paternity, Tina was greatly offended her mother's assertion. Also at issue was Mom's business of raising dogs. Tina didn't want the responsibility of cleaning up in the house after the dogs.

The only two options acceptable to Mom, which she announced at the beginning of the mediation, were that Tina could enter a home for unwed mothers where she would be educated and helped during her pregnancy, or Mom was going to institutionalize Tina in the drug treatment facility (she had been treated there the previous year). Tina was adamantly opposed to both. She wanted to stay with her friends (who were of a similar ilk) and she wouldn't have anything to do with "the religious freaks." They were all part of a derelict commune. Whenever Tina didn't like the "hassle" of home, she would run away to this group.

Tina presented herself a little trendily but was neat and clean. She was no longer involved with the suspected father (they had had an ongoing relationship) and now wanted nothing to do with him or his progeny. She blamed Mom for not having done something about an abortion in time. Mom pointed out that she had. Mom was "pushed to the limit" with her own problem, abusive marriage (her second). The problems with Tina had been going on for over five years. Tina's demeanor was belligerent. Mom was getting help for these problems. Mom acted resigned and tired. Mom would, with no warning, with no effect, make profoundly bitter, angry and resentful comments expressing her disbelief in the possibility of any positive outcome to the mediation. There was a point when Tina cried; but Mom never displayed any emotion.

The mediators attempted to find some small common ground to begin building consensus. The two parties reported their incredible frustration at

not being able to find any common area, link, or bond. The relationship between them was bad, and they were angry. An older sibling had followed a similar destructive path. Mom had come to the decision that since there was no hope for Tina, she was going to spend her energies working on her own issues.

There was never really any mediation. The mediation eventually just “ran out of gas.” The parties were not responding to one another. They just spoke whatever was on their mind at the moment. The mediation did not progress, even though the parties spoke to each other one at a time, in accordance with the rules set down by the mediators. Tina used a bit of profanity on a couple of occasions, but otherwise the two spoke acceptably. Mom’s body language was closed, worn out, and restrained. She looked “just plain tired.” Tina was much more confrontational.

The mediators took a break to discuss the case between themselves. They agreed to try for another 30 minutes (they had been working at it for two and one half hours). The mediators came back, worked, and finally closed the mediation. They told the women that they didn’t feel there was any way to mediate because there was no common ground. The two parties did not react. The mediators let them know that there were other agencies who might be able to provide some counseling. The mediators also let them know that the door was open to them at any time in the future.

The mediators felt that if there had been any opening gesture on the part of Mom that Tina would have moved. Mediators made offers of future assistance if they ever wanted to try again on these or other issues. The case was closed.

Assessment

| M O V E | DESCRIPTION | YES /NO |
|------------------|-------------|------------|
|------------------|-------------|------------|

| M O V E | DESCRIPTION | YES /NO |
|------------------|---|------------|
| 1 | Introductions were made, permission to use first names was requested and given. | yes |
| 2 | Storytelling commenced. Reflective listening with acknowledgment of difficulties encountered given | yes |
| 3 | Mediators expanded the official discussion to reflect parties needs | yes |
| 4 | Storytelling commenced. | yes |
| 5 | Impasse was tabled for now in hopes of opening up discussion later. Asked for permission to implement change of direction | yes |
| 6 | Both parties frustrations acknowledged | yes |
| 7 | Exploration of options | yes |
| 8 | Impasse tabled | yes |
| 9 | Bridging statements made | yes |
| 10 | Ask parties to clarify their agenda | yes |
| 11 | Impasse acknowledged | yes |
| 12 | Some elements of positive exchange of perspectives is sought | yes |
| 13 | Parties were asked if there was anything else that could be discussed | yes |
| 14 | Offers of future help were made if things changed | yes |

The case was transformative. The mediators used reflection and bridging statements tirelessly to overcome the mother's impasse and both parties' frustration. A micro assessment of the moves of the mediation reveal that the mediators looked for every opportunity to acknowledge the situations and comments of the parties. The mediators felt that the daughter would have moved off her mark if only the mother would have at least invested in the process. The mother was distant emotionally at the mediation.

The stated dispute was only about truancy. The parties definitely had other agenda items. The mediators permitted the parties to make their own choices and to try to understand the other party's perspective. The work was to no avail. There was no perspective, change by the mother. The daughter would not admit to any change in perspective but the mediators felt as if she only needed an excuse to admit to some new perspectives.

Case Study 7

The case under consideration was a simple matter involving a commercial transaction. Both parties were present in court and the sitting judge referred the case to mediation for evaluation. The plaintiff was accompanied by his wife and a witness (his father). The defendant was the owner/operator of a commercial auto repair establishment. None of the parties resided in the city in which the case was being heard and all of the parties were inconvenienced by the travel distance and the time away from their work.

The mediators escorted the parties into a conference room off of the courtroom. This room provides all the privacy needed without inconveniencing the parties. All the parties and the two co-mediators settled around the table. The plaintiff and his wife sat on one side of a rectangular table. On the opposing side sat the defendant and one of the mediators. At each of the heads sat another mediator and the witness, respectively. The mediators sat around the corner from each other.

The introductions were done by one of the mediators. Both mediators were introduced using full names and the parties were asked if they would be comfortable having everyone addressed on a first name basis. Everyone agreed. There was a brief introduction of the process of mediation and an explanation of the credentials of the mediators. It was explained that the Commonwealth paid to provide the services of certified mediators. In this particular case, one of the mediators was being mentored by the other mediator. This was not mentioned.

The consent form was briefly reviewed. The parties were asked to read over the form before signing it. Everyone present in the mediation signed the consent form. The second mediator, the mentoree (Med 2), encouraged the parties to ask any questions now or in the future. Throughout the mediation, the mediators tried to do and say things to set the parties at ease.

The mediators explained that the mediation had two basic ground rules. The use of pads of paper and pens were explained so that parties could focus on what was being said. Pads and pens were lent to all present.

The mediator began by asking the plaintiff to begin the storytelling. Mr. S opened a binder with a document several pages long. He began to read the document out loud. The mediator asked Mr. S to explain the what had brought him to this point *in his own words*. Mr. S spoke for about eight minutes, being very careful to use dates and times; he frequently checked his notes for accuracy. At the end of his presentation, Med 2 began to recite a synopsis of the incidents that had transpired, including dates. At the conclusion of this synopsis, the mediator reflected on the statements' overarching messages, and then asked Mr. S for affirmation. Both Mr. and Mrs. S became quite animated and vigorously nodded and agreed that this was indeed the essence of the situation. The mediators thanked Mr. and Mrs. S and Mr. T (the defendant) for their cooperation and patience. Mr. S was seeking over 300% of the cost of the parts and service estimate.

Mr. T was asked to briefly tell his story. He began by first discussing the nature of his business. He also wished to show color photographs of the parts and repairs. The mediator firmly, but politely, asked him if this was a necessary aspect of the dispute. Mr. T was taken aback and indicated that he thought it would be enlightening. The mediator agreed that they might be useful in the future, and that if they were needed then, they could be presented⁴⁵. Mr. T affirmed that Mr. S's presentation was accurate. Both parties agreed that from the outset the transaction was revocable. A fee of

⁴⁵ The photos were neither needed nor used.

\$100 for shipping, handling and reshelving would be required of the plaintiff. He also added an addendum to Mr. S's story. It seemed that Mr. and Mrs. S were unaware of Mr. T's last offer, before the court action to settle this dispute. Each of his offers in the mediation were increasingly generous and conciliatory. The last offer Mr. T made would have given the S's the parts, labor, and warranty they had desired from the outset at an overall savings of a few dollars over what they had originally agreed to pay. The compromise on the part of the S's was that they had to endure the inconvenience of the delays on the repair of their vehicle, and that the work was to be done by Mr. T's company rather than their trusted family mechanic. The inherent problem with the S's accepting this offer of Mr. T was that the S's had lost confidence in Mr. T's personal reputation.

The S's were unmoved by Mr. T's final offer. Although the last offer was a revelation to them, they still were adamant that they wanted what was promised to them-- a refund. At no point during the mediation did the S's ever explain or request the amount of the warranty. They were confused by the offer of Mr. T because it seemed inconsistent with the image they had settled on of him. Further complicating the issue were the genuine conciliatory comments offered by Mr. T about the S's and their plight. Regardless, the S's would not let Mr. T carry out his offer.

The mediators attempted to explain the offer of Mr. T. in neutral terms to the S's, who seemed to be rejecting the offer because of the financial loss they had incurred. The mediators attempted to visually display the offer using a "flip chart." Each mediator used a different way to explain the offer. The S's firmly rejected the offer using very strong body language and intractable wording. The S's were not going to negotiate anything along this avenue.

The witness (Mr. S's father) had not spoken a word throughout the entire mediation. The mediator thought that he might be the voice of reason and asked him to give his perspective on the situation. This strategy was not productive. Ultimately, the witness reiterated the desire and right of the S's to get a refund.

The offer of Mr. T having been flatly rejected, the mediators now turned back to Mr. T to ask him if he would consider the request of Mr. S. Mr. T. spoke in very conciliatory terms, offered supportive statements about the character of the S's and said that his only wish was that he had had a full opportunity to show the S's mechanic what needed to be done. He lamented at how unnecessary "all of this" was. He readily agreed to give them the full amount they had paid to him minus the \$100.

With that said everyone relaxed a bit. Many more conciliatory statements were made by both parties affirming the positive character traits of the other. The mediators made positive remarks and reflected back a number of these comments to be sure that the parties heard them. The mediators began to craft the agreement. The agreement began and ended with positive statements about the parties and their good intentions. It focused on a simple exchange of goods for a refund check. All of the small details were ironed out. Both Mr. S. and Mr. T. signed the agreement. Copies were distributed to all parties. Mr. T. and Mr. and Mrs. S completed evaluation forms.

Upon leaving the mediation, the parties readily shook hands with each other and apologized for all that had happened. The mediators were thanked as well.

Assessment

| M O V E | DESCRIPTION | YES /NO |
|----------------------------|---|--------------------|
| 1 | Introductions were made, permission to use first names was requested and given. Ground rules explained. | yes |
| 2 | Agreement to mediate signed | yes |
| 3 | Storytelling commenced. Mediators stopped Mr. S and asked him not to retell every detail but to give an overview. | yes |
| 4 | Acknowledged patience of second party to speak. | yes |

| M O V E | DESCRIPTION | YES /NO |
|------------------|---|------------|
| 5 | Acknowledgment given of both parties for the honesty and sharing. | yes |
| 6 | Past miscommunications were acknowledged and a change in perspective was noted. | yes |
| 7 | Attempt to have party move off mark with reality checks | no |
| 8 | Exploration of options | yes |
| 9 | Reality check | yes |
| 10 | Acknowledgment of good intentions and no hard feelings acknowledged. | yes |
| 11 | Ask parties to clarify their agenda | yes |
| 12 | Impasse acknowledged | yes |
| 13 | Some elements of positive exchange of perspectives is sought and acknowledged. | yes |
| 14 | Parties clarified their position and interests | yes |
| 15 | Acknowledging comments made by party | yes |
| 16 | Every option was re-explored. | no |
| 17 | Agreement crafted and signed | yes |

This mediation was transformative. The mediators were incredibly frustrated by the lack of movement by the S's, and yet they allowed the mediation to proceed with their party's agenda rather than trying to impose a different, more (as they perceived it) just settlement for all parties. The mediators had a very difficult time keeping their opinions about the short-sightedness of the S's decision to themselves. The line between informed decision-making and forcing the issue of a reality check became a bit blurred toward the end of the mediation. A micro assessment of the moves of the mediation found the mediators trying to support the parties at every turn with acknowledging statements.

The perspective of the S's was greatly changed by the developments and revelations of the mediation. Mr. T realized that the entire situation was just a big misunderstanding and that his reputation as a businessman and professional was not what was actually in question. This was empowering for Mr. T. The S's also were empowered by the ability to enforce, through a productive discussion in the mediation, their options. They were able to relax when they understood that what they wanted and what had been promised to them was definitely one of their options. Hearing the perspective of the S's also gave Mr. T the ability to re-examine the business he was conducting from an customer's perspective. He had not experienced the frustration the S's had, but he now seemed to understand it.

Conclusions About Mediation Processes

The case information collected overwhelmingly supports the contention that the mediation being practiced in the CDRCs in Virginia is done according to the transformative process of mediation. Six of the seven mediation case studies reflected the use of the transformative process. However, the informal information collected from the leaders of the CDRCs, as well as from experienced mentor/mediators in the field, would put that conclusion into question. Peter Fitzpatrick (1993) discussed the myths of mediation. One of the myths he discussed is the ability and the viability of mediators practicing mediation in a transformative manner. As a concept, transformative mediation is the best and most advantageous form of mediation (Honeyman, 1995). In reality, very few mediators will opt to hold to a transformative mediation method. They will espouse it, and may be able to regurgitate it upon command; but they do not practice it in reality.

One possible explanation for the mediations in the case studies reflecting the transformative process is that these were the mediators who

were chosen by the directors (and one president) of the CDRCs to present cases to the researcher. Retrospectively, it seems that the leadership probably inadvertently skewed the available information by selecting mediators who are the best, brightest, and most committed to mediation. These mediators had, for the most part, been dedicated volunteers to the CDRCs for several years. These mediators may have been so experienced that they knew that they could trust the transformative mediation process, and, therefore, used it. It is the opinion of the researcher that most of the mediations in Virginia probably are not conducted using the transformative process. It may even be that although they were reported as transformative, that some of the actual case study cases were also not really transformative. The evidence in support of the assertion that transformative mediation is not widely practiced in Virginia is confined to the anecdotal reports of the executive directors and many of the mentor mediators in Virginia.

For private paying cases and cases that are court contract cases, there is pressure to get an agreement for a case rather than to allow the disputants to go away empty-handed. Judges like to see that their docket *is* being lightened (by the cases they send to mediation not returning to their docket for adjudication) and that the disputants are better off for having spent some time in mediation. The Bench and the public believe that they are buying, according to the leadership and the mentors, an agreement. Therefore, if the disputants get an agreement, everyone seems to be happier. When evaluating this line of reasoning using a systems approach, it is easy to see why it would be advantageous to the CDRCs. The CDRCs need referrals from judges, lawyers, and other private sources. The loop of inputs needs to increase in order for the CDRC to grow and to try to underwrite some of the non-paying cases.

Summary

This chapter presents the findings of the research on the organization, structure, and activities of the CDRCs in Virginia. The complete set of data is presented in two different formats in Appendices 1 and 2. A summary of all of the information is organized into 12 overview tables that are included in this chapter. The process model was used to analyze the data in the tables, in this chapter and in Appendices 1 and 2.

In addition, there is information that has been analyzed from the case studies that is also presented in this chapter. The case studies were analyzed by separating the mediation information into a step-by-step table representing the moves of the mediation. The mediations were also analyzed against a standard for their transformative process. The case studies were all categorized as transformative, non-transformative or undetermined. All data analyses are influenced by the agency interview, the case study, and the site visit.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

Summary of Findings

This dissertation is a qualitative research study of the Community Dispute Resolution Centers in Virginia. It presents a comparative analysis of the structure, organization, and activities of the nine CDRCs which comprise the Coalition of Community Mediation Centers.

This dissertation uncovered a rich field of potential for future qualitative and quantitative study. The cooperation of the CDRCs was essential to the discovery and understanding of the CDRCs and the data. One of the most important outcomes of this research is the dearth of knowledge the CDRCs have about themselves and their fellow CDRCs.

The field of mediation is on the verge of a dynamic change. The future of the field and the practice of mediation is largely in the hands of the academics, the legislators, and the practitioners. The speed and direction of the changes are malleable.

The nine CDRCs naturally broke into two distinct groups by budget. The large budget group included mostly urban CDRCs; all had budgets between \$282,200 and \$120,000. The small budget group included mostly non-urban CDRCs; all had budgets from \$48,140 to approximately \$26,000. These groups were found to be descriptive and fairly consistent predictors for other traits, as well.

Generally, large budget CDRCs had big staffs, large numbers of mediations, and many contacts. They usually had a parent organization and had been in existence for at least eight years (some as long as 14 years). These organizations also had a heavy reliance upon training for their economic viability, and named training as their most significant source of income.

The small budget CDRCs were, for the most part, newer, self-reliant, and did not have a parent organization. These CDRCs usually had a relatively low number of mediations annually and the contacts with their offices were also considerably less than with the large CDRCs. These CDRCs were generally located in rural areas where the overall demand for mediation services is apparently much lower than in a city or university town. Grants were generally their most significant source of income. These CDRCs also relied heavily upon volunteers to do much of the organization's work.

It is essential to the growth and development of the CDRCs that they exchange information. A common vernacular is fundamental. Deborah Kolb noted that amongst a collection of practitioners and scholars of mediation with whom she meets regularly, their goal is to develop "a common vocabulary and shared understanding of mediation practice and to differentiate mediation from other modes of third party intervention" (Kolb, 1986). Their commonalties and differences can be utilized to gain insight and promote development, to expand and promote the field, and to contribute to their financial success and survival.

In order for the CDRCs in the Coalition or a researcher to learn more about the CDRCs there needs to be a common set of denotations for certain pivotal words. What exists at present are many sets of connotations. Some of the words which are bantered about and in need of specific definition are: volunteer, intake, inquiry, mediation, completed case, case, conciliation, training, advocate, abuse, caucus, lobby, and mentor. It is important for all the individuals discussing a topic to know that they are not just talking about the same topic, but that they are truly communicating efficiently utilizing a common language. As long as the discourse may be taking place on a slippery slopes, with those involved unaware of the existence of the slope, there are going to be difficulties. Establishment of a common set of definitions about basic, generic terminology would be very helpful to the CDRCs in the Coalition.

The issue of the training and certification of mediators was also addressed. Of the relatively few highly capable mediators, many may be leaving the practice of mediation. Furthermore, these expert mediators are probably not being adequately replaced in terms of equal numbers, levels of experience, or in expertise. Many of the professionals in the field feel that the standards for certification lack rigor and need to be raised in order to protect the professionalism and practice of mediation.

CDRCs are facing serious financial difficulties that threaten their survival and force them to focus considerable energy on income-producing activities. This focus on income production is leading to a changed role and a redefinition of the focus and purpose of Virginia's CDRCs.

Implications for Theory

The contribution of this dissertation to the body of theory is in three areas: systems application, the practice of mediation, and conflict resolution. This dissertation uses the systems approach to study Virginia's CDRCs. The systems approach is beneficial because it enabled the researcher to examine the whole CDRC in terms of inputs, throughputs, outcomes and the influence of environmental factors. A reaffirmation of the usefulness of the paradigm of systems theory was demonstrated. This information represents a contribution to the body of systems theory.

The theory of the practice of mediation consists basically of the "idiosyncratic use of various processes," what is usually referred to by practitioners as 'seat-of-the-pants theory' " (Scimecca, 1993, p. 212).

Mediation has developed... in a rather asymmetrical fashion, with practice far ahead of theory's ability to account for that practice. Managing a conversation in ways that promote participation of all parties is still more of an art than a science because we lack adequate tools to describe, prescribe or predict the course of that process. (Cobb, 1991, pp. 87-88)

As Michael Lang said in his address to the Virginia Mediation Network Spring Conference (May, 1996), without the proper information and education, practitioners may get to use techniques successfully, but they will not know how or why.

This dissertation has contributed to the theory of conflict resolution with a corroboration of the opinions of Scimecca, Bush, Cobb, and others. At present, there is no comprehensive theory of mediation. Burton's Basic Human Needs theory and Game theory are incomplete attempts to theorize about conflict resolution. The newer developments in the field, such as that of Bush and Folger's transformative mediation process, are an attempt to expand this body of theory.

The theoretical body of mediation practice is broadened by this research. There is now a body of data for those who practice mediation to reference. The CDRCs, as well as the "for profit" mediators in Virginia, have a means of comparison for the work they do because of the benchmark of the research and analysis established in this dissertation.

The theory of teaching and training mediators has also been expanded through this research. The opinions of Honeyman are shared by many of those in mediation leadership positions in Virginia. The teaching and training requirements for mediators need to be reviewed and evaluated.

With this research has come the extension of the information about CDRCs. Heretofore, there has been little information available on the centers in Virginia. The comparative information is a valuable contribution to the theory regarding the mission and direction of CDRCs because it provides a picture of the individual activities, organization, and structure

The theory of the management of the CDRCs has been augmented with a view into the strengths and weaknesses of the centers' business practices and needs. This dissertation provides an overview of the CDRCs business, management, and marketing practices. The research offers insight into the specific areas both of shortfall and opportunity for the CDRCs in Virginia. The variety of CDRCs in Virginia is broad enough to

speculate that the information pertaining to the Virginia CDRCs is applicable to CDRCs outside the Commonwealth of Virginia.

Implications for Practice

A key focus of this dissertation is to explore the processes of the CDRCs in the Commonwealth. The Society of Professionals in Dispute Resolution (SPIDR) issued guidelines that broadly define the standard by which mediation should be conducted. These standards, or ethics, allow considerable latitude to the practitioner; even if all the CDRCs' practitioners accept and assimilate these published values, there is reason to believe that if there are parts of the process which fall between the cracks.

The operation of the CDRCs would be impossible without the use of volunteers. Even those who are compensated through stipends, salaries, and honorariums do not approach what they could make, based on their talents, education, and experience, in the "real world." There is great interest in mediating today--much greater than the interest in seeking recourse to mediation. This has resulted in a glut of "wanna-be's" in the field, with very few able to support themselves doing mediation.

The CDRCs rely heavily upon their volunteer corps. Volunteers fill numerous types of positions in the organizations. The largest group of volunteers work as mediators. The CDRCs would be lost without them. The durability of the dedication of these volunteers is not infinite. Between burnout and frustration, the CDRCs may lose many of their most dedicated and intrinsically qualified workers.

Personnel issues pervade all aspects of the CDRCs. Many of the personnel in the CDRCs work less than full time. This applies both to the regular volunteer staff as well as the paid personnel. It is also more the rule than the exception for these staffers, employees, and volunteers to have non-overlapping daily office schedules in order to optimize the coverage at the CDRC.

Many personnel positions are filled with highly educated people. The pay scale is low. It is not unusual to find a secretary, intake worker, or administrative employee with a J.D. degree making slightly more than minimum wage. What all of this means to the CDRCs is that although they have a dedicated cadre of volunteers, a professional staff, and a mission worthy of their efforts, it still is not enough. It takes money to accomplish the work and to expand mediation's horizons.

A group of more grossly underpaid executive directors of organizations is hard to imagine. In one CDRC, the full time (more than 40 hours weekly) director with a post-graduate degree and more than 4 years experience in his position was making less than six dollars an hour at the time of the research; another CDRC in search of a new director was offering wages of five dollars an hour.

One insight provided by the research was the discovery of the transitory nature of the executive personnel of the CDRCs. For the most part, the leadership is comprised of committed mediators with management responsibilities. The large CDRCs had individuals who possessed both mediation and management skills in varying combinations. At the time of the research, the leadership in four of the CDRCs in the Commonwealth was turning over. The directors are continually wooed by the opportunity to "go private." There is never enough time or money to accomplish the excessive workload. None of the replacement positions were being offered at an executive salary. In order to attract well-qualified people to the job and gain continuity, the CDRCs will have to pay a wage commensurate with the work and responsibility of the position. The members of the first generation of mediators, many of them "naturals," are already looking for other ways to be involved in the field or in related fields. They see other individuals, less talented and qualified, being remunerated for their work. These veterans are, understandably, frustrated. The newest generation of mediators, many of them temporarily willing to work without compensation at the CDRCs, plan to gain experience and a "professional"

reputation so that, at the right time, they might develop a paying vocation (or a post-retirement income). As Davis (1993) said, this is a hot profession.

Few mediators are able to give up their day jobs because they need these jobs to support themselves. There are several problems standing in the way of a change in this condition. With so many “certified” mediators flooding the field, it is not likely that a condition will develop in the next couple of years in which any competent mediator will be able to find enough work to support himself. After forty hours of training and a couple of co-mediations, some people feel secure that they *are* mediators. This suggests that the field of mediation is being, and will continue to be, limited by “seat of the pants” practitioners. As Michael Lang espoused (Spring VMN conference, 1996), we must not just find that one of our “bag of tricks” worked; we must know why.

There is debate as to the necessity or advantage of the use of an expert in a particular field as a mediator. That debate is driven by the consumer of the services who believes that an neutral facilitator who is an expert must be better than just a neutral facilitator. However, utilizing an authority or specialist has potential pitfalls. The temptations of becoming directive may be nearly irresistible to someone who has a depth and breadth of knowledge in a particular field. With the set of lenses through which he sees, the expert/mediator brings focus to that which is familiar; however, this expert may still have tunnel vision. There is the chance that he may move to forge an agreement based upon an incomplete exploration of the issues because of this clear, but limited vision.

For the mediator without special expertise, but with multitudinous experience, recognizing that every situation is novel and needs to be treated on an individualized basis may also be difficult. As Patrick Phear said about one of the perils he faces with his professional expertise as a family mediator,

It is tempting to say this is a type B, subset III and pull the solution out of the drawer. It is a danger, you know, falling into formulas in any type of mediation. Really, it is hard work to mediate, to listen to

the subtleties and nuances of what people are saying, to hear all the emotional pieces. (Sarat, 1994, pp. 200-201)

The highly authoritative mediator may be able to assert his /her authority over the disputants. These informative messages are conveyed in such subtle ways that often none of the participants, even the mediator, is aware they are being transmitted. With the collateral dimension of special knowledge there is the attendant and, thus, increased danger that the mediator will be eager to recognize a simpler way to resolve the conflict rather than engage in all the dialogue. The disputants, too, may be eager to accept the resolution as it stands rather than to continue to carry out a full exploration of the conflict in deference to the mediator's expertise.

There are few excellent reasons to certify mediators. One of the few is the standardization of the process of mediation. Through the certification process, there can be at least minimal assurances that there will be some consistency in training and in the quality of mediators. Furthermore, the Court requires specific performance standards for certification and recertification as well as encouraging and publicizing the attendance of continuing educational opportunities through such organizations as Virginia Mediation Network (VMN), which also supports the transformative model of mediation. This support was explicitly evidenced through the sponsorship and publicity of Robert Baruch Bush as the keynote speaker and scholar-in-residence at one of the two long VMN conferences in 1995.

Enough cannot be said about the need to educate and re-educate mediators seeking certification. If there is to be a certification, which is tantamount to an endorsement of competency by the Commonwealth, then that certification should stand for a standard which is purposeful. The existing standard is questionable, at best, and needs to be raised to improve the field and the practice of mediation. Some of the most important issues of certification are training and mentorship.

An unwitting public has no way to discern one mediator from another. The only distinguishing feature a mediator can offer is

certification. Its intent, to provide a list of mediators who are available to accept and mediate a court contracted case, has been subjugated. This certification has been translated into a "Good Housekeeping Seal of Approval" by both mediators and the public.

The very reason mediation as a profession has become so attractive to so many is because of the low entry "price" required to become a "professional," with regard to formal education background, financial investment, and time/training commitment. All of the centers accept a forty hour training, as outlined by the Court, as an acceptable preparation for the mediators they mentor. This is not to say that they find this preparation adequate. Honeyman said, "I don't know a single person who has had any responsibility for quality of program who really believes that you can train a mediator from scratch in anything like forty hours" (1995, p. 7). While not all of the CDRC routinely accept their trainees into their mentorship programs, many do. The entire structure of the training and mentoring of mediators as endorsed by the Commonwealth should be reviewed.

The more mediation catches on, the more inadequately talented and trained would-be professionals are going to be produced from an increasing number of inadequate preparation and training programs. The reason for the often-failed-attempt to train someone as a mediator may be that those teaching are not doing a good enough job; that only a select number of individuals have an aptitude for mediation; that there is a strong economic incentive to endorse a trainee for certification; or it may just be that the 40 hours, as Honeyman states, is just not enough time to train a mediator. Until the certification standards for mediators is raised, there is a diminished hope of truly forwarding the span and use of mediation.

There is never enough money to fulfill the mission of the CDRCs. Every CDRC feels the crunch of the budget. The financial pressures that are brought to bear on them are geometrically greater than in a small CDRC. This pressure has already led to the closing, or near closing, of two small CDRCs, Lynchburg and Staunton.

Training mediators has been the most easily accessible and natural way for the CDRCs to fill the need for more money. The more a CDRC wants to fulfill its mission, the more fundraising it must do in order to afford to do so. Consequently, the CDRCs must increasingly turn to other types of training as well, such as customer satisfaction trainings. There is nothing inherently wrong with a focus on training. The problem is that while a CDRC focuses on training, it is not focusing on optimally fulfilling its mission.

It is the opinion of the researcher that the evolution of the CDRCs is essential to their continuity. Without the shift in focus of the efforts of the CDRCs (especially the large CDRCs) to more lucrative fields, such as training and full-payment mediations, there is little likelihood that the CDRCs will have a long future in Virginia. The Commonwealth and the CDRCs have a decision to make with regard to the survival of the CDRCs. They perform a valuable role and need to either be supported by the Commonwealth in some way, or to turn their energies toward being able to be more economically independent.

Mentorship is required by the Supreme Court for certification. It is also a potentially important source of funds for the CDRC. There are two basic problems inherent in mentoring. As has been stated previously, CDRCs are always watching the bottom line. Mentoring can mean a large sum of money brought in at a very small cost. Yet, there are many reasons not to mentor someone who has gone through training but is not ready (or may never be ready) to be mentored. The best reason should be that when delivering services to real parties (as in a mentoring situation), the CDRC should give their clients the best team of mediators it can muster.

The concept of co-mediating is based upon the idea that two mediators working together will benefit the client more than a single mediator. While the mediator is mediating, he/she is also expected to be evaluating, assisting, and guaranteeing a minimum level of services to the parties. This may lead to a lack of focus on the needs of the client.

One of the complications in the mentoring situation is that there may be pressure to endorse a trainee. The Court specifically asks in the trainee evaluation if there is any reason not to recommend the individual for certification. Certainly, someone doing a mediation for the first time should not be evaluated by such a standard. How is one to know if this neophyte is going to be capable of becoming an accomplished mediator? The question that presents itself is, "what heinous mistake must a trainee commit in order to be judged so harshly by a mentor?" Even after the second of three required mentoring situations, it is uncomfortable for a mentor to "fail" a trainee. It is only on the third and final mediation that a mentor may feel comfortable in giving the trainee a negative evaluation.

The problem with this last ditch effort to fail a less-than-adequate trainee is twofold. First, the trainee has been lulled into a false sense of comfort and security by having acceptable evaluations until this point. Understandably, a trainee is shocked and disappointed to hear about his/her inadequacies as barriers to his/her certification at this time. They feel betrayed and cheated. Second, there is often a bond which has developed between the trainee and the CDRC. This bond includes a feeling of good will. Since many of the large CDRCs rely partially upon the trainees' repeat training and referral business, the CDRCs are potentially spiting themselves by making for, what is undoubtedly, a less-than-happy outcome.

Enough cannot be said about the need for more extensive education in and about mediation as a prerequisite to certification. If there is to be a certification, which is tantamount to an endorsement of competency by the Commonwealth, that certification should exemplify a standard which is considerable. The existing standard is questionable, at best, and needs to be raised to improve the field and the practice of mediation.

The experienced and the inexperienced mediators (for totally different reasons), the mentors, and the leadership of the CDRCs all worried over the agreement that would hopefully come at the end of their mediation session. Self-determination of the disputants to choose their own outcomes, even if that does not include coming to an agreement, is their

right. But as was mentioned in Chapter IV, what is espoused and what is practiced are sometimes a great distance apart. Nearly every mediator is trained to give an introduction to mediation that includes a statement of the likelihood of coming to an agreement. That number is usually touted to be between 85-90%. If mediation is not about coming to agreement, then why do mediators raise the hopes and expectations of the disputants by having the expected “success” rates readily available?

As hopeless as it seems for the CDRCs to choose an alternative path, there is a choice to be made. As stated in Chapter IV, Fairfax, a large CDRC, has not developed the economic reliance upon training, especially training mediators for certification, that Richmond, Harrisonburg, and Norfolk have. The potential for this reliance on training to become deleterious to the CDRC is obvious. There are three pitfalls. The first is that the focus on training takes time and effort away from a focus on the stated mission items. Although the mission statements may need revision, until they are revised they should be the guiding beacon of the CDRCs’ efforts. Second, the larger the CDRCs get, the more potential there is for them to lose their contact with the underserved community. A large institution may be daunting for a community person. Third, there is the real possibility that court contracts may not always be available or only available in limited quantities. With the reliance upon the income from the court cases comes a sense of false security.

The question remains as to whether the large CDRCs which are apparently more open systems and seemingly more successful (by some of the more typically accepted measures of success, such as numbers of mediations performed, number of employees, and growth) are truly better off than the small CDRCs. Without the assistance of grants, contributions, and in-kind contributions, even the large-budget CDRCs would find it hard to remain in business. The small CDRC have more potential to be in touch with their grass-roots and the original mission of the mediation movement. Their course is still within their choice and control.

Accepting cases sent by the Bench is financially essential to the CDRCs. Not only must the CDRCs compete for the court contracts with other mediators, but they must gain the ear and the confidence of the Bench in order to get the cases sent from the court's docket. The credibility of actually having a caseload may only be realized through the court contracted cases. (For many of the small CDRCs, these are virtually their only cases). The experience found in these cases is needed by the CDRCs' mediators for recertification and for the certification of their trainees. Additionally, the CDRC, needs the opportunity these cases afford to mentor trainees (and charge a fee or receive in-kind services). The signs of this co-optation by the traditional system of dispute resolution are everywhere; most of the CDRCs had a site at the courthouse; many of the CDRCs get the largest share of their case referrals from the courts. Because of the reliance on the Supreme Court and the local Bench, the CDRCs must orient themselves to the necessary changes required in order to be compatible with the traditional system of dispute resolution. Either the CDRCs must face the realities of the co-optation of the system as they are functioning in, or they must innovate to become something different than what they are now: a community-service-oriented program.

While the continuing complex institutionalization of the system-oriented ADR systems meets the goals and requirements of the formal dispute resolution system, it may be the cause of ADR's diminished capacity to serve the service- and community-oriented type of goals. Many of those actively advocating ADR were specifically seeking an informal method which would more closely match the goals of the parties, encourage the maintenance of long-term relationships, help the grass-roots rebirth of local communities, mitigate reliance on lawyers and codified laws, and attend and advocate for the nonparties affected by the conflict (Merry and Milner, 1993). Being all things to all people as an ADR program became an contradiction in terms.

Only Harrisonburg and Roanoke were willing to make the necessary evolutionary changes to be able to help secure their organization's viability.

Harrisonburg is using training as its main focus of activities. Its decision is clear from the number of mediations it does (commensurate with its budget size), and from the staff committed to training. Roanoke is currently reinventing itself and changing its focus to helping non-profit organizations with facilitation services. It is creating a niche for itself rather than carving one out against an onslaught of attorneys who only trust one of their own.

Even with a court contract and training, the CDRCs could benefit by expanding other areas of their mediation base to generate income. Roanoke is a case in point. Despite the fact that they have chosen to develop the non-profit agencies' path as a direction for the CDRC, they have also developed a business-to-business caseload that is unprecedented in any other small CDRC (and, when adjusting for the BBB referrals for Richmond and Norfolk, for the large CDRCs as well). What is particularly interesting about this business caseload is that it is only of a very specific type of case-construction. Roanoke has reinvented itself; the very nature of the CDRCs' role has changed.

Without a common understanding of what it is each CDRC is saying, there can not be a completely effective dialogue between the organizations. While a description of the way mediation is conducted is a productive academic endeavor in and of itself, there is the additional benefit in describing mediation as it is practiced in the CDRC in order to establish standards for practice and evaluation. If the CDRCs are to continue their association, perhaps they will come to realize that through their commonalties and differences can emerge better off than if they try to stand alone. The standardization of the practice of mediation, be it at the level of the mediation demonstrated in the cases under review, at another already established standard, or at some hybrid. The CDRCs need to establish a common vernacular, a set of connotations and denotations to be taught to those in the CDRCs and used in all aspects of their functioning.

When does one count an agreement? There are those who only would count an agreement if the dispute had been completely resolved. Others feel

that even a partial agreement by the parties on any portion of the disputed points means that an agreement has been reached. Neither is more valid than the other for the purposes of benefit to the field. What is important to the entire discussion of this dissertation and for future reference is that a position be taken, a definition be arrived upon, and the decision be implemented as soon as possible within the Coalition.

If the parties have resolved some, but not all, of the issues, is there an agreement? If the agreement is never signed but is implemented, is it then to be counted as an agreement? If the parties come to an agreement before the mediation begins but after have been ordered to mediation, is there then an agreement? If there are multiple parties involved in the mediation and only some of them come to agreement, then is there an agreement? The possibilities are endless and certainly do not require further elaboration. The point is that a standard must be established, codified, and implemented. Then the true comparative process, and the learning, may begin.

Just as a consistent set of connotations and denotations is essential to the communication of the CDRCs in the Coalition, so is the standardization and the formalization of counting and recording protocols in the CDRCs. The written documentation, which is the formalization level of the organization, is critical for the matters of recording and reporting information.

It is conceivable that if all of the CDRCs were to adopt a single standard, the VMN may consider the adoption of the same standard. Until this point no one has taken the lead in establishing a standard. The endorsement of a standard by the VMN, or perhaps the Court, would mean that any of the serious private practitioners may be similarly inclined to adopt the standard if they were to consider serious data collection. This already worked with regard to client evaluations. The Court's form is used exclusively by most of the CDRCs to evaluate mediators' work, although almost every leader and mentor acknowledges its inadequacies. A

standardization of the means of counting agreements, or what the definition of a contact is, would aid the CDRCs to function more effectively.

The standardization of counting and recording methods would not be a productive endeavor if that information could not be tabulated and shared amongst the CDRCs and perhaps within the Commonwealth. That kind of data requires the use of computers. None of the CDRCs had entered the "computer age" at the time of the research. This is not to say that the CDRCs did not have computers available. Most of the CDRCs did have computers but were not utilizing them to their full potential.

The smaller the organization, in terms of numbers of mediations performed, the more likely one is to find low technology, academically overqualified personnel, and volunteers doing the work traditionally relegated to paid staff. It would be easy to conclude that all of these conditions exist because of finances. However, the IOLTA grants from the Virginia Law Foundation leveled the playing field somewhat for the struggling CDRCs. Therefore, it is a situation created in part by choice.

According to the systems model, once a critical mass of individuals in society understand and use mediation as a resource for their conflict resolution, the dispute resolution paradigm will shift. There is every possibility that, as in adjudication, mediation will be a sought-after avenue for dispute resolution. It may well be that the final incarnation of mediation has not emerged, as it will appear when it becomes a self-supporting viable auxiliary or alternative to the traditional means of dispute resolution. Until that critical mass of society is reached, however, the field will continue to have to do education as the major portion of their sales process. The CDRCs

must find ways to stimulate new business. They must also find a way to hold on to the business that has already expressed an interest in mediation. This is the case with contacts to the CDRCs. All of the CDRCs experience the common situation in which contact is made with the CDRC but there is no return. By virtue of their very numbers, the contacts to the CDRCs present a problem in dealing with them on an individual basis. Mailing information to each person who calls is financially prohibitive.

With so many potential consumers, and based upon satisfaction and resolution rates, positive public relations, and future training sales, the CDRCs could benefit by hiring and training individuals just to handle contacts. In order to increase the numbers of contacts, and subsequent mediations from contacts, there have to be more satisfied customers recommending the process.

Obvious areas such as the business community are not only underserved by the CDRCs, but they are underinformed as to the benefits of mediation. Marketing to the business community benefits the CDRC in terms of the proliferation of the peace process, good and ongoing referral sources, and an injection of full-pay mediation fees. These fees, and the quest for them, may seem opportunistic and outside of the realm of the mission of the CDRCs' original intentions. However, the use of mediation is to the benefit those who are in conflict, whether this involves are local community cases or downtown business cases. Also, it can be argued that the revenues from these cases can generate the income necessary for community services, offered at affordable rates such as mediation casework and trainings. It is their non-profit orientation that sets the CDRCs apart from other mediation organizations; and unlike a focus on training for the sake of generating capital, this opportunity would allow the CDRCs to do, more of what they purportedly exist to do, and to do it for those whom the CDRCs intend to serve.

It is clear from the data that marketing CDRCs and their work is essential to their viability and proliferation. For the development of such necessary marketing, the research presented in the following section may be absolutely essential.

Implications for further research

“The opportunity for work well done is the opportunity to do more.”

Jonas Salk, M.D.

Expanding the body of knowledge about the CDRCs in Virginia is essential for the growth of theory and professionalism in the field. Theory requires the standardization of terms and concepts and must be built on a foundation of clear, operational definitions. A means by which the data, regarding these terms, is collected and counted is necessary for the professionalism, the theory, and the field to progress and grow. The Court, the Coalition, the VMN, or a university are ideal sponsors for this work.

A qualitative analysis of the data was done utilizing the process model. While the qualitative analysis was productive, many of the issues discussed in the dissertation may benefit from additional quantitative investigation. For example, investigating the adjusted cost per mediation would be important information so that the optimal size for a CDRC might be found. A nagging problem with comparing costs is that there is no good way, under the current conditions, to understand the true cost to a CDRC of performing mediations. With the information gathered on the cost per mediation from the survey come both speculation and questions about why the costs vary as they do. Is there an economy of scale, and if so, can the potential number of cases be predicted for most CDRCs? If there is an economy of scale, what are its parameters? Information on the economy of scale for different aspects of CDRCs and the point of diminishing returns may best be determined quantitatively. Also, an investigation of the usefulness of other models in analyzing the organization, processes, and activities of the CDRCs would be a productive endeavor. Just as the process model was used in this dissertation, another model may provide new and different insights.

Another area reviewed in this dissertation was the teaching and training of mediators. Included in that topic is the subject of granting credentials. The question is not just if the Commonwealth should certify mediators, but who, how, when, and to what end should credentials be offered. The level or levels of certification is also an issue.

The lack of referrals by judges, businesses, and others is a source of consternation and frustration to the CDRCs. The CDRCs need more paying

work. Most of those, outside of the mediation community, in a position to provide referrals largely do not.

The issue of training mediators, an economically seductive, lucrative, and addictive business for the CDRCs, needs to be scrutinized as well. The cost/benefit relationship of the trainings also needs assessment with regard to the loss of focus on the mission of the CDRCs. It is possible that the time and energy spent on the trainings could be applied successfully to marketing mediation and writing grants.

There continues to be a question as to the durability of the market for becoming a certified mediator. The sheer economics of court contracted mediation obviate its attraction for most of those who are drawn to the field. If the CDRCs are going to be in the business of offering training as their most significant commodity (by virtue of their financial requirements), then it would be incumbent upon them to do market research and development.

The question of training mediators is continually raised in the literature. Are there characteristic features about an individual that can be used to screen or test those who believe they are interested in mediation? Are there also those who have little, or no, propensity for mediation? One question in need of investigation concern the ability to train a mediator in all of the skills and talents necessary to succeed. Is there really such a thing as the “natural” mediator? There is fertile ground for investigation in discovering if there is an aptitude for a successful mediator and identifying what the qualities of those individuals are. Can someone who does not possess the characteristics of a natural mediator be trained adequately in them?

The basic questions about the what form the appropriate curricula for mediator teaching, training, and mentorship also need to be addressed. The wisdom of the decision to allow mediators to enter the field as professionals, and what standards, certifications, and licenses should be available/required of them, forms another question. Finally, there is the question of who the certifying agency ought to be.

Questions have been raised as to the motivation of mediators. An investigation into this area may lead to better planning of screening, teaching, training, and mentoring mediators. Are these volunteer mediators the peers and neighbors of the disputants, or are they a segregated, gentrified group of “do- gooders”?

The CDRCs do not seem to be able to convert their contacts, especially business contacts, into mediations. Why referrals and contacts do not often provide convert to cases is an important question. The entire question of marketing the CDRC is open to investigation.

The ethics of compelling a disputant to enter mediation is a question of interest as well. Both business contracts and judges may compel a disputant to participate in an evaluation for mediation.

With the exception of court-referred cases, is the mission of community service a reasonable and/or practical one to pursue? Is the “community” in community dispute resolution center a obsolete concept due to its impracticality? Is there a way that the communities the CDRCs were historically established to serve can be stimulated to seek out and utilize the CDRCs’ services? If the CDRCs do commit to carrying out their mission, who should pay the price?

There is a wealth of information about the different areas of theory pertaining to this dissertation that still needs to investigated. The subject is open to a variety of inquiries and research techniques.

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APPENDIX 1

CITY SURVEYS

Interview with Rosamond Dingleline; Charlottesville; Virginia

ORGANIZATION

| | |
|----------------------------------|---|
| 1) Name | The Mediation Center at Focus |
| 2) City | Charlottesville |
| 3) Incorporated | no |
| 4) Environment | urban |
| 5) Geographic Setting | university area |
| 6) Tax classified | Focus is 501(c)(3) |
| 7) Founded | 1984; with a city block grant. Focus was incorporated in 1991. |
| 8) Independent Plant | no |
| 9) Square Footage | 400 square feet + an office + a mediation room. |
| 10) Computerized | yes; data base for cases and mailing list and any attorneys who responded to a recent questionnaire |
| 11) Shared Facility | yes |
| 12) Parent organization | yes |
| 13) Name of parent | Focus |
| 14) Purpose of parent | Provide org. structure & \$ support |
| 15) Funding from parent | the only items carried by the mediation center as an expense are personnel costs and office supplies. |
| 16) % of funding from parent | 100% |
| 17) Branch or remote sites | yes |
| 18) How many branches or remotes | 1 |

| | |
|--|---|
| 19) Type of location of branch or remote | one day a week there are 2-3 volunteer mediators at the courthouse in the General District Courts |
|--|---|

FUNDING

| | |
|---|---|
| 20) Source(s) | Focus: funding from Focus comes from fundraisers; memberships and 33% from United Way. |
| 21) Most Significant source(s) of funding | Focus and Virginia Law Foundation |
| 22) Charge for Services | yes |
| 23) Who pays (% of income producing) | 100% (the CDRC does no <i>pro bono</i> work of any kind) |
| 24) Under which circumstances (one/both clients) | both |
| 25) By session or hour | per session |
| 26) Payments collected by whom | mediator collects at the beginning of the mediation |
| 27) (see question #79 below) | yes |
| 28) Sliding scale | yes |
| 29) basis for reduced fee schedule | income |
| 30) substantiation required or requested | not available |
| 31) Telephone conciliation | no |
| 32) Anticipating charging for conciliation | no |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation; See #35 for clarification | The cost is ever decreasing because the annual budget remains relatively stable over the years but the number of mediations continues to rise. |
| 35) What is included in estimate | the cost is estimated by taking the total budget of the center and dividing it by the number of mediations. Because so much of the budget is in in-kind donations it is impossible to estimate the cost per mediation |

CONTACTS

| | |
|---|--|
| 36) Annual # inquiries (see question #67) | unable to count due to the arrangement with Focus and their switchboard. |
| 37) What do you call an inquiry | not applicable |
| 38) Cyclical Pattern | around Christmas and June |
| 39) % to Mediation | 85% of court referred |
| 40) % to Conciliation | not applicable |
| 41) % to Arbitration | not applicable |
| 42) Initiated by Business | very few |
| 43) Business to Business | very few |
| 44) Person to Person | not available |
| 45) Business to Person | very few |
| 46) Referrals from courts | 2-3 cases weekly from General District court. Circuit Court referrals seem to come when the judge has a significant backlog. Those cases seem to be indiscriminately sent to mediators for evaluation. |
| 47) Site at/near courthouse | yes |
| 48) Who speaks to new contacts | either the Focus secretary or anyone in the office |
| 49) Trained as mediators | not necessarily |
| 50) Assess case for mediation | the office staff |
| 51) Attempt conciliation | no |
| 52) % conciliation attempted | not applicable |
| 53) Who contacts respondents | the center |
| 54) How respondent contacted | intake person |

MEDIATIONS

| | |
|-----------------------------|--|
| 55) Typical length | 2 hours usually |
| 56) Multiple Session Cases | yes; about 1/2 of the cases |
| 57) Which type are multiple | rarely in civil matters; often in the case of family mediation |

| | |
|---|---|
| 58) Solo or co-mediations | co-mediation |
| 59) Co-mediation policy (yes/no; male/female; etc.; certified-one/both) | yes; also in the case of family mediation the center prefers to use a male/female team |
| 60) Solo ever ok | yes in the case of a scheduling problem with the mediators |
| 61) Caucus in mediation | no |
| 62) Reason for caucus mediation | not applicable |
| 63) # of mediations done annually | 70 approximately |
| 64) Growth rate | not available |
| 65) Growth area | not available |
| 66) Portion settled through mediation | 90% |
| 67) Portion of inquiries which go to mediation | of the court referrals about 85% go to mediation |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | not available |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | 10% |
| 70) % inappropriate for mediation | not available |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | generally no; however if the problem is in the distant past and no longer is an issue the center will handle the case |
| 73) alcohol abuse | generally no; however if the problem is in the distant past and no longer is an issue the center will handle the case |
| 74) physical abuse | generally no; however if the problem is in the distant past and no longer is an issue the center will handle the case |

| | |
|--|---|
| 75)sexual abuse | generally no; however if the problem is in the distant past and no longer is an issue the center will handle the case |
| 76)Other general categories deemed unacceptable | no |
| 77)Formal agreements typed or handwritten | handwritten |
| 78)Who collects payments and assesses charges | mediator |
| 79)C.O.D. | yes |
| 80)The mediators are given any materials with which to go into the mediation | the intake sheet |
| 81)Use of certified mediators in mediations (only in court cases; in all cases; etc) | only mandatory for the court cases |
| 82)Base information required; preferred; desirable | yes |
| 83)Employ different specialists for different types of mediation | for expertise and experience |
| Notes: agreement rate on all mediations done by the center is about 90%. | |
| | |

MEDIATORS

| | |
|--|--|
| 84)How many volunteer mediators | about 30 active |
| 85)Any paid mediators | yes; mentor mediators are paid a small honorarium (\$15 per case for civil cases and \$25 per case for family cases) |
| 86)Pay trainers | yes |
| 87)How many in each category (family; general) | not available |
| 88)Use attorneys | yes; as mediators |
| 89)paid to mediate | no |
| 90)same rate as other mediators | not applicable |

| | |
|--|--|
| 91) Portion of mediators with certification | most |
| 92) Type of training of mediators | general and family |
| 93) Extra training given to the Center's volunteer mediators | no |
| 94) Offer intra-organizational training (continuing education) | yes |
| 95) Offer extra-organizational training | yes |
| 96) Mediators chosen for a particular mediation (at random; chosen for expertise; for gender; for experience/inexperience level) | yes; for expertise; gender and level of experience |
| 97) Mentorship program available | yes; on a limited basis |
| 98) How long does it generally take to be mentored | a few months |

RELEASES

| | |
|---------------------------------|-----------------------------------|
| 99) Release forms provided | yes |
| 100) When signed | at the beginning of the mediation |
| 101) Mediators signs release | yes |
| 102) Read out loud by mediator | sometimes |
| 103) Explained by mediators | sometimes |
| 104) item by item | sometimes |
| 105) Copies provided to parties | if requested |

EVALUATION

| | |
|--|-----------------------------|
| 106) Evaluate effectiveness and satisfaction | yes |
| 107) after every session | no |
| 108) Other types of evaluations that are performed | yes; for co-mediators |
| 109) When performed | at the end of the mediation |
| 110) Multiple post-mediation evaluations: | yes |

| | |
|---|--|
| 111)when | 3 months after the agreement is signed |
| 112)at what intervals | just once |
| 113)If multiple evaluations are performed is there a significant difference over time | not available |
| 114)How performed in person; mail; phone | in person if possible; otherwise the parties are given a form and asked to mail it in. |
| 115)Is there follow up to evaluations | yes |
| 116)how | parties are contacted by phone |
| 117)under what circumstances (routinely; in cases of dissatisfaction; randomly) | done on cases which come to agreement |
| 118)Why are they performed | to find out if the agreements are holding. |
| 119)Is the evaluation process productive | yes |
| 120)why | it is a quality check on the process |
| 121)Recommendation of how the process should be | not available |
| 122)Are the results scrutinized by another agency | yes; by the United Way |
| 123)Who is responsible for performing the mediation evaluations | the mediators ask the parties (only) |
| 124)the follow ups | there is a volunteer who does the work from home |
| 125)Who fills out evaluations completed mediations; all intakes | only those who come to agreement |
| 126)Supreme Court required evaluations | not yet implimented |
| 127)under what circumstances | will be done for all court referred cases |

EMPLOYEES

| | |
|-----------------------------|-----------------------------------|
| 128)How many paid employees | 2 part time staff (20 hours each) |
|-----------------------------|-----------------------------------|

| | |
|--|----------------------------|
| 129)List major job categories | intake worker and director |
| 130)How many dedicated to mediation express in % | 0 |

VOLUNTEERS

| | |
|-------------------------------|--|
| 131)Volunteers used | yes; especially as mediators (about 30 active). |
| 132)Volunteers paid | no |
| 133)Training given volunteers | in exchange for mentorship the mentorees are asked to give a one year commitment of service back to the center. The center exercises the right to choose who they will mentor from the training sessions |
| 134)Offer in-service training | yes; general plus in-services from outside experts |

BOUNDARIES

| | |
|---|----------------------------|
| 135)Issues with other centers | no |
| 136)resolved | not applicable |
| 137)formal agreement | no |
| 138)Compete with private mediators or other centers | yes with private mediators |
| 139)Court contracts | yes |
| 140)Other contracts | yes |
| 141)Compete with others for court contracts | yes |

MISSION STATEMENT

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|--|
| <p>Mediation is a confidential process of resolving conflicts that upholds the dignity of and respect for each individual and develops understanding and mutually acceptable agreements.</p> <p>The Mediation Center is a non-profit dispute resolution program which makes available to individual and community groups professional mediation and conflict resolution services and training. All services and training are provided by trained mediators whose practices strictly adhere</p> |
|--|

to the professional standards set by the Supreme Court of Virginia.

The Center advocates for and promotes awareness of the philosophical and practical value to the community of using alternative dispute resolution methods.

The Center offers professional training to acquire the necessary skills for certification by the Supreme Court of Virginia in the practice of mediation.

BUDGET

\$48,140

FUTURE PLANS

- raise fee scale upward and to an hourly basis
do some pro bono work

Interview with Ramona Buck; executive director

ORGANIZATION

| | |
|------------------------------|---|
| 1) Name | Northern Virginia Mediation Service |
| 2) City | Fairfax (serving four counties: Fairfax; Prince William; Loudon; and Arlington) |
| 3) Incorporated | yes; separate from the university |
| 4) Environment | university |
| 5) Geographic setting | suburban/urban |
| 6) Tax classified | 501 (c)(3) |
| 7) Founded | approximately 1989 by two graduates of the ICAR (see question #13) as a mediation service |
| 8) Independent plant | no |
| 9) Square footage | not available |
| 10) Computerized | accounting and data base for mailing labels and categories: mediators; contributors. No client statistics done on computer. |
| 11) Shared facility | yes with ICAR |
| 12) Parent organization | yes; ICAR (see question #13) also has spun off 3 other programs and provides free office space to them as well. No one from ICAR sits on the board although their board participation is welcome. |
| 13) Name of parent | Institute for Conflict Analysis and Resoulution (ICAR) at George Mason University |
| 14) Purpose of parent | 1) provide a way to serve the community 2) ICAR's interns will have placements. |
| 15) Funding from parent | receive free office space from the University but no financial assistance of any other kind. |
| 16) % of funding from parent | not available |
| 17) Branch or remote sites | yes |

| | |
|---|---|
| 18)How many branches or remotes | numerable types and locations but there is no actual operation of any branches except for a phone into a volunteer's home. |
| 19)Type of location of branch or remote | Arlington and Loudon County: use court house spaces; shared office spaces; church spaces; University spaces at other campuses; part of an attorney's office; libraries; public buildings. Some of these spaces are donated; some are paid for per use; some of paid for with monthly rental fees. There are also phones tied into the organization in each of the counties so that clients local to the county don't have to call long distance and incur a charge. |

FUNDING

| | |
|---|---|
| 20)Source(s) | County of Arlington grant (1994-\$10000 up several thousand dollars from 1993); Supreme Court contract; private contributions \$4000; training fees; Virginia Law Foundation; several small grants; fundraising event (walkathon) ; challenge grant (1 to 1). |
| 21)Most Significant source(s) of fund | 1994- mediation fees. Supreme Court contract -\$9 400+ |
| 22)Charge for Services | yes |
| 23)Who pays (% of income producing) | all parties; all cases are income producing even if it is very little. |
| 24)Under which circumstances (one/both clients) | both parties pay |
| 25)By session or hour | hourly |
| 26)Payments collected by whom | mediator |
| 27)C.O.D. (see question # 80 below) | clients pay at the end of each session |
| 28)Sliding scale | yes (as per each party's ability to pay) |
| 29)basis for reduced fee schedule | individual's income unless there is only one income. Then it is bases upon family income. |

| | |
|---|--|
| 30) substantiation required or requested | no |
| 31) Telephone conciliation | not applicable do not do phone concilitations |
| 32) Anticipating charging for conciliation | not applicable |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | not available but estimated at \$185 per mediation |
| 35) What is included in estimate | total budget divided by # of mediations |

CONTACTS

| | |
|---------------------------------|--|
| 36) Annual # inquiries | not available; probably around 500 |
| 37) What do you call an inquiry | phone contact; a registered complaint |
| 38) Cyclical Pattern | no |
| 39) % to Mediation | 50%-60%; about 200 inquiries did not develop into cases |
| 40) % to Conciliation | not applicable |
| 41) % to Arbitration | not applicable |
| 42) Initiated by Business | self referred: very small % (the center only had 4 self referred "other" type cases. Through the courts there are quite a few. |
| 43) Business to Business | only 2 self-referred. Through the courts there are quite a few. |
| 44) Person to Person | Almost 100% |
| 45) Business to Person | very small |

| | |
|--------------------------------|--|
| 46) Referrals from courts | Court cases represent a large portion of the total cases. 1993 information: From Fairfax about 36% of cases. Prince William had 12%. Loudon had 11%. In all four counties; Information as of the end of 1993: Fairfax Circuit Court: (custody and visitation) 98 referrals from court; 48 self-referrals (custody and visitation); 3 other kinds of cases. Prince William County Juvenile and Domestic Relations Court: 88 cases; 12 self-referrals (custody and visitation). Arlington County small claims project: 2 site volunteer coordinators; 123 cases; Loudon County general district court and civil court (6 cases). |
| 47) Site at/near courthouse | Loudon County; Arlington County (see #46) |
| 48) Who speaks to new contacts | there is a specified intake person who does most of the intake. The executive director and a group of four volunteers cover the other times that the part time intake person is not available. |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | yes and mediators are supposed to continue to assess. |
| 51) Attempt conciliation | no |
| 52) % conciliation attempted | not applicable |
| 53) Who contacts respondents | ask the initiator to let the respondent know that they are going to be contacted by the center; then the center then calls the respondent |
| 54) How respondent contacted | the mediation coordinator or one of the volunteers; center calls the respondent. |

MEDIATIONS

| | |
|---------------------------------------|--|
| 55) Typical length | generally a maximum of 2 hour sessions; a domestic (family) case is handled in 3-4 sessions on the average. |
| 56) Multiple Session Cases | most cases (even non-family) require multiple sessions of two hours (although some are completed in a single session) |
| 57) Which type are multiple | all types |
| 58) Solo or co-mediations | co-mediation |
| 59) Co-mediation policy | support use of co-mediation because 1) it is prime way to mentor new mediators 2) one person may catch something in a mediation that the other may miss 3) each mediator brings different talents/skills/training to the table. |
| 60) Solo ever ok | when necessary |
| 61) Caucus in mediation | when indicated |
| 62) Reason for shuttle mediation | excessive anger or hostility |
| 63) # of mediations done annually | 382 in 1993 |
| 64) Growth rate | about 50% annually |
| 65) Growth area | court projects |
| 66) Portion settled through mediation | called withdrawal when the case actually does not actually mediate 33% reach agreement or partial agreement; 33% withdraw; 33% reach no agreement. 50% of those who actually get past the evaluation stage reach agreement or partial agreement. Self-referred have a higher agreement rate. In the more sophisticated counties there is a slightly lower rate of agreement perhaps because they may have already made an investment in attorneys' fees and are more invested in the win/lose scenario. |

| | |
|--|--|
| 67) Portion of inquiries which go to mediation | of the court referred cases: 1/3 |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate | of the non-court referred cases: very low percent |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate | of the non-court referred cases: about 50% |
| 70) % inappropriate for mediation | approximately 12% |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | not necessarily (see #76) |
| 73) alcohol abuse | not necessarily (see #76) |
| 74) physical abuse | not necessarily (see #76) |
| 75) sexual abuse | not necessarily (see #76) |
| 76) Other general categories deemed unacceptable | the only reason the center will not mediate a case is if it is determined that the two parties are not able to negotiate for any reason (including any of the ones listed above); also when one (or more) of the parties senses a great injustice has been done. |
| 77) Formal agreements typed or handwritten | depends; if it is a one session mediation then it is almost always handtyped. If the mediation is going on multiple sessions then the agreement will be typed and may be sent to the parties by mail in advance of the session. |
| 78) Who collects payments and assesses charges | the center assesses fees before the sessions begin and the parties are aware of the charges in advance. The mediators collect payments. |
| 79) C.O.D. | yes; the parties pay at the end of each session |
| 80) The mediators are given any materials with which to go into the mediation | yes; mediators are given lots of materials |

| | |
|---|--|
| 81) Use of certified mediators in mediations (only in court cases; in all cases; etc) | for court cases; other information not available |
| 82) Base information required; preferred; desirable | preferred so that the mediator knows what questions to ask; the more background information the mediator has the better |
| 83) Employ (use) different specialists for different types of mediation | the agency knows and tracks the strengths and experience of each mediator and uses that information accordingly to match a mediator to a case. |

MEDIATORS

| | |
|--|---|
| 84) How many volunteer mediators | there are three levels of mediators: apprentices/ practitioners/ mentors. There are 120 mediators. |
| 85) Any paid mediators | mediators are paid (given a "stipend") half of the collected fees. Everyone who mediates is not paid. Apprentices are not paid. Practitioners are only paid after they have done one year of service gratis. If both mediators are eligible to be paid they will split 50% of the paid stipend. |
| 86) Pay trainers | \$60 per hour or 1/3 of the gross per trainer (there may be one or two trainers). |
| 87) How many in each category (family ; general) | 120 mediators on active list |
| 88) Use attorneys | yes |
| 89) paid to mediate | if they qualify by the standards regarding all mediators of this agency |
| 90) same rate as other mediators | yes |
| 91) Portion of mediators with certification | A practitioner is not necessarily certified but only a practitioner may apply for certification. The aim of the agency is to have all of the mediators certified |
| 92) Type of training of mediators | 40 hr. basic training |

| | |
|--|---|
| 93) Extra training given to the Center's volunteer mediators | 2 hr. optional in-service available every month |
| 94) Offer intra-organizational training (continuing education) | see #93. |
| 95) Offer extra-organizational training | yes; let mediators know of opportunities |
| 96) Mediators chosen for a particular mediation (at random; chosen for expertise; for gender; for experience/inexperience level) | not available |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | varies |

RELEASES

| | |
|---------------------------------|---|
| 99) Release forms provided | yes; there is a separate agreement to mediate |
| 100) When signed | at the very beginning of the session before there has been a decision to mediate; now they are done on the spot |
| 101) Mediators signs release | not available |
| 102) Read out loud by mediator | it is the decision of the individual mediator as to whether they read it or just talked through |
| 103) Explained by mediators | yes |
| 104) item by item | yes |
| 105) Copies provided to parties | yes |

EVALUATION

| | |
|--|--|
| 106) Evaluate effectiveness and satisfaction | use Supreme Court evaluation for court referred cases; |
| 107) after every session | no; only at end of mediation |
| 108) Other types of evaluations that are performed | use their own form for self-referred cases. |

| | |
|---|--|
| 109)When performed | at one time the evaluations were sent out after 6 months to a year had passed from the end of the mediation. The evaluations are presently done at the end of the mediation and handed to the mediators when the evaluations were turned in later they tended to be more negative. |
| 110)Multiple post-mediation evaluations: | no |
| 111)when | not applicable |
| 112)at what intervals | not applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114)How performed in person ; mail ; phone | in person |
| 115)Is there follow up to evaluations | evaluations are scrutinized |
| 116)how | speaking to the mediator |
| 117)under what circumstances (routinely ; in cases of dissatisfaction ; randomly) | under severe conditions indicating that a mediator has not been appropriate in his/her behavior |
| 118)Why are they performed | to check quality |
| 119)Is the evaluation process productive | for the mediators it is |
| 120)why | helps the center and the mediators know how they are doing |
| 121)Recommendation of how the process should be | not available |
| 122)Are the results scrutinized by another agency | Supreme Court of the Commonwealth of Virginia |
| 123)Who is responsible for performing the mediation evaluations | the mediators |
| 124)Who is responsible for performing the follow ups | the administrative staff |
| 125)Who fills out evaluations completed mediations ; all intakes | everyone who goes through mediation |

| | |
|--|--------------------------|
| 126)Supreme Court required evaluations | yes |
| 127)under what circumstances | all court referred cases |

EMPLOYEES

| | |
|--|---|
| 128)How many paid employees | 2 part time and 1 full time; see #129 |
| 129)List major job categories | executive director; mediation intake and assignment worker; administrative assistant; there are also 6 coordinators (2 in each of 3 counties) who also mediate. |
| 130)How many dedicated to mediation express in % | none |

VOLUNTEERS

| | |
|-------------------------------|--|
| 131)Volunteers used | use volunteer coordinators in the counties. |
| 132)Volunteers paid | the office help are also volunteer mediators who are paid a stipend. |
| 133)Training given volunteers | none |
| 134)Offer in-service training | 2 hour optional training available every month |

BOUNDARIES

| | |
|---|--|
| 135)Issues with other centers | they are developing and will require some working out in the future. |
| 136)resolved | there is an unwritten understanding and each of the organizations is scrambling to cover their own geographic area |
| 137)formal agreement | not applicable |
| 138)Compete with private mediators or other centers | other organizations do compete for training opportunities across geographic boundaries |
| 139)Court contracts | yes; however private mediators cannot afford to take a court case because it is such poor pay |
| 140)Other contracts | no |

| | |
|---|---------------|
| 141)Compete with others for court contracts | not available |
|---|---------------|

MISSION STATEMENT

“Provide mediation and conflict resolution services as well as training to the citizens in the four counties served to these people and organizations.”

BUDGET

\$171,040

Interview with Curtis Pendergras

ORGANIZATION

| | |
|---|---|
| 1) Name | Rappahanock Mediation Center Inc. |
| 2) City | Fredricksburg |
| 3) Incorporated | yes |
| 4) Environment | rural/historical/suburban |
| 5) Geographic Setting | bedroom community to D.C.; farming/cattle farms. surrounded by 6 other rural counties |
| 6) Tax classified | 501 (c)(3) |
| 7) Founded | January 1989 (incorporated February 2 1989) through the efforts of 3 local attorneys |
| 8) Independent Plant | no |
| 9) Square Footage | 702 sq. ft. |
| 10) Computerized | for word processing; mediator time; contributor base; etc. |
| 11) Shared Facility | no but the center has access to other offices in their building and may use them liberally |
| 12) Parent organization | none |
| 13) Name of parent | not applicable |
| 14) Purpose of parent | not applicable |
| 15) Funding from parent | not applicable |
| 16) % of funding from parent | not applicable |
| 17) Branch or remote sites | yes |
| 18) How many branches or remotes | 3 |
| 19) Type of location of branch or remote | courthouse representatives in general district and juvenile/domestic relations court in several county courts. Mediations are done on site. |

FUNDING

| | |
|---|--|
| 20) Source(s) | City of Fredricksburg and County of Spotsylvania (City of Stafford has historically provided funds). Supreme Court Contract; mediation fees; training. |
| 21) Most Significant source(s) of funding | City of Fredricksburg and County of Spotsylvania provide about 34% of the total budget. (Anticipate City of Stafford will again fund the center for a total of 50% of funding). Supreme Court Contract provides another 27%. Mediation fees (11%). Training 25%. |
| 22) Charge for Services | yes |
| 23) Who pays (% of income producing) | all court referred cases are paid by the Supreme Court contract. All other parties are expected to pay something (minimum payment of \$5/hr.). In theory there is no pro bono work |
| 24) Under which circumstances (one/both clients) | both parties |
| 25) By session or hour | by the hour |
| 26) Payments collected by whom (see question #78 below) | the mediator |
| 27) C.O.D. (see question #79 below) | yes (cash and checks only); the center will rarely bill a client (usually in the case of a commercial client) |
| 28) Sliding scale | yes (based upon .001 of your current gross income adjusted down when the amount falls between increments). |
| 29) basis for reduced fee schedule | gross income |
| 30) substantiation required or requested | not available |
| 31) Telephone conciliation | some are done but they are not actively sought or advertised. |
| 32) Anticipating charging for conciliation | presently ask for a donation of an unspecified amount for this service. |

| | |
|---|--|
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | \$300+ |
| 35) What is included in estimate | Total budget/# of mediations (administration time; overhead; intake; letter writing; etc.) |

CONTACTS

| | |
|---------------------------------------|---|
| 36) Annual # inquiries | approximately 4 per week |
| 37) What do you call an inquiry | any contact with the center including people who do not understand what mediation is. |
| 38) Cyclical Pattern | around Thanksgiving work slows down until mid January. May/June/July are busiest months in this year. |
| 39) % to Mediation (see question #67) | 20% |
| 40) % to Conciliation | less than 20% |
| 41) % to Arbitration | none |
| 42) Initiated by Business | none |
| 43) Business to Business | none (the center intends to develop this area in the near future) |
| 44) Person to Person | none |
| 45) Business to Person | none |
| 46) Referrals from courts | very dependent upon court referrals |
| 47) Site at/near courthouse | yes |
| 48) Who speaks to new contacts | either the executive director; the volunteer; or the secretary |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | yes |

| | |
|---|---|
| 51) Attempt conciliation | no |
| 52) % conciliation attempted | not applicable |
| 53) Who contacts respondents | in court referred cases the center contacts the respondent |
| 54) How respondent contacted | by phone; the purpose of the contact is to set the time for the mediation |
| NOTE: less than 10% of the work is not court referred | |

Mediations

| | |
|--|---|
| 55) Typical length | about 2 hours (only 1 session) |
| 56) Multiple Session Cases | approximately 40% |
| 57) Which type are multiple | divorces with large and diverse property settlements involved (most of the family cases do not involve this aspect of the divorce) |
| 58) Solo or co-mediators | either (co-mediation in 96% of cases) |
| 59) Co-mediation policy | yes; always try to use a male and a female on a team; always have one of the co-mediators be certified (even when there are only female parties). |
| 60) Solo ever ok | only when necessary |
| 61) Caucus in mediation | rarely |
| 62) Reason for caucus mediation | transfer of sensitive information |
| 63) # of mediations done annually | 119 in 1994 (approximately 2 weekly) |
| 64) Growth rate | with the Supreme Court contract the case load will probably double this year (approximately 200 in 1995). Until this contract the case load was increasing at rate of about 5-10% annually. |
| 65) Growth area | court referred cases; especially family |
| 66) Portion settled through mediation | 75% |
| 67) Portion of inquiries which go to mediation | about 20% |

| | |
|---|---|
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | 5% |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | Not available |
| 70) % inappropriate for mediation | very small number |
| 71) Divorce mediation | yes, almost all of the cases are domestic |
| Mediate cases involving: | |
| 72) drug abuse | no |
| 73) alcohol abuse | no; will consider making exceptions if the circumstances or the judge calls for it |
| 74) physical abuse | no will consider making exceptions if the circumstances or the judge calls for it |
| 75) sexual abuse | no |
| 76) Other general categories deemed unacceptable | no |
| 77) Formal agreements typed or handwritten | typed and forwarded directly to the clerk of the court to request that it be entered as part of the court order. |
| 78) Who collects payments and assesses charges | the mediator |
| 79) C.O.D. | yes; cash and checks only. The center rarely bills a commercial client. |
| 80) The mediators are given any materials with which to go into the mediation | record with intake sheet; any court materials; allegations; brief sheet with reason for mediation and all appropriate forms and referrals; agreement form etc. No sheet on how to mediate is given. |
| 81) Use of certified mediators in mediations | 20% of the active mediators are certified |
| 82) Base information required; preferred; desirable | not available |

| | |
|---|-----|
| 83) Employ different specialists for different types of mediation | yes |
|---|-----|

MEDIATORS

| | |
|--|--|
| 84) How many volunteer mediators | 82 total of which about 32 are active mediators |
| 85) Any paid mediators | yes; the court liasons are paid @ \$10/hr. Any one who at the court house waiting for cases is paid to be there and hopefully doing mediations |
| 86) Pay trainers | yes; 35% of net of class |
| 87) How many in each category | not available |
| 88) Use attorneys | yes |
| 89) paid to mediate | they are paid only if they are in the court room doing or waiting to do the mediation. |
| 90) same rate as other mediators | yes |
| 91) Portion of mediators with certification | not available |
| 92) Type of training of mediators | general and/or family |
| 93) Extra training given to the Center's volunteer mediators | none |
| 94) Offer intra-organizational training (continuing education) | some training is provided on a very irregular basis. |
| 95) Offer extra-organizational training | no |
| 96) Mediators chosen for a particular mediation | the assignment is done based on the memory and intuition of the executive director in order to get a good match. |

| | |
|--|--|
| 97) Mentorship program available | no; the center does not offer mentorship opportunities. Any of the certified mediators in the center were "grandfathered" in. However; the center does provide opportunities for their trained mediators to observe and to co-mediate and the trained mediators are therefore able to apply for certification. |
| 98) How long does it generally take to be mentored | not applicable |

RELEASES

| | |
|---------------------------------|---|
| 99) Release forms provided | yes |
| 100) When signed | at the very beginning of the mediation just after the introduction |
| 101) Mediators signs release | yes |
| 102) Read out loud by mediator | no |
| 103) Explained by mediators | the mediators ask the clients if they have any questions about the release and then will answer the questions. The mediators usually will highlight the important points of the release form. |
| 104) item by item | no |
| 105) Copies provided to parties | no |

EVALUATION

| | |
|--|--|
| 106) Evaluate effectiveness and satisfaction | yes |
| 107) after every session | no; client satisfaction and mediation is evaluated at the end of the mediation. |
| 108) Other types of evaluations that are performed | yes; for attorney and self-referred cases there is a different evaluation form. There are also co-mediator and observer evaluations. |
| 109) When performed | the co-mediator and observer evaluations (of the mediators) are done at the end of the every session. |

| | |
|---|--|
| 110)Multiple post-mediation evaluations: | no |
| 111)when | not applicable |
| 112)at what intervals | not applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114)How performed | in person |
| 115)Is there follow up to evaluations | yes |
| 116)how | if the client has probably misunderstood the evaluation form then the director will contact the party and ask permission to change the response. If the client is very dissatisfied with the mediation then the director will call the party to discuss the problem. |
| 117)under what circumstances | all circumstances |
| 118)Why are they performed | looking for any possible weaknesses on the part of the mediator; for any mistakes the client may have made. |
| 119)Is the evaluation process productive | yes; however it would be more productive if the follow-up procedure (about the mediator's behavior) would have less lag time. |
| 120)why | an individual file folder is kept on each mediator |
| 121)Recommendation of how the process should be | the center would like to do a follow up evaluation of the process of mediation with the clients several months later. |
| 122)Are the results scrutinized by another agency | no |
| 123)Who is responsible for performing the mediation evaluations | all clients |
| 124)the follow ups | not applicable |
| 125)Who fills out evaluations | all mediations |
| 126)Supreme Court required evaluations | yes |

| | |
|------------------------------|---|
| 127)under what circumstances | all cases; this evaluation form exclusively used for court referred cases. The center reviews and keeps a copy for its records; original goes to the Supreme Court. |
|------------------------------|---|

EMPLOYEES

| | |
|-------------------------------------|---|
| 128)How many paid employees | there are currently 2 |
| 129)List major job categories | Secretary (20 hrs/wk); Executive Director (15-20 hrs/wk). |
| 130)How many dedicated to mediation | none |

VOLUNTEERS

| | |
|-------------------------------|------|
| 131)Volunteers used | yes |
| 132)Volunteers paid | no |
| 133)Training given volunteers | none |
| 134)Offer in-service training | no |

BOUNDARIES

| | |
|---|--|
| 135)Issues with other centers | yes |
| 136)resolved | yes |
| 137)formal agreement | yes |
| 138)Compete with private mediators or other centers | yes; this is not a problem nor is it problematic |
| 139)Court contracts | yes; however the work at the court is not cost effective because the evaluation is pro bono. Only the mediation itself is paid by the Supreme Court. |
| 140)Other contracts | not applicable |
| 141)Compete with others for court contracts | no |

MISSION STATEMENT

The Rappahannock Mediation Center is dedicated to providing mediation services, conflict management and resolution training to

empower individuals to amicably resolve their conflict using, when required, qualified third party mediators. The Center serves the Rappahannock River basin its tributaries.

BUDGET

\$37,745

Interview with Katherine K. Smith ; executive director

ORGANIZATION

| | |
|--|---|
| 1) Name | Community Mediation Center |
| 2) City | Harrisonburg |
| 3) Incorporated | yes |
| 4) Environment | College town |
| 5) Geographic Setting | rural |
| 6) Tax classified | 501 (c)(3) |
| 7) Founded | 1982 |
| 8) Independent Plant | rented |
| 9) Square Footage | 2500 |
| 10) Computerized | semi; there are 6 computers used basically for word processing; no case management done on computer |
| 11) Shared Facility | the building houses other businesses but the office space only houses the Center |
| 12) Parent organization | n/applicable at present but James Madison University is exploring a partnership with the Center |
| 13) Name of parent | not applicable |
| 14) Purpose of parent | not applicable |
| 15) Funding from parent | not applicable |
| 16) % of funding from parent | not applicable |
| 17) Branch or remote sites | court sit do training at a local church at no cost or rent |
| 18) How many branches or remotes | none |
| 19) Type of location of branch or remote | court (general district and juvenile/domestic relations) |

FUNDING

| | |
|-------------------------------------|--|
| 20) Source(s) | memberships (contributors); fees; training; United Way (\$10 thousand) |
| 21) Most Significant source of fund | training (50%) |
| 22) Charge for Services | yes |

| | |
|---|---|
| 23) Who pays | 95% of clients pay (or Supreme Court contract pays for them) |
| 24) Under which circumstances | clients both pay |
| 25) By session or hour | hourly |
| 26) Payments collected by whom | mediator |
| 27) C.O.D. (see question #80 below) | yes |
| 28) Sliding scale | yes |
| 29) Basis for reduced fee schedule | reported income (no substantiation required or requested) |
| 30) substantiation required or requested | not available |
| 31) Telephone conciliation | maybe 2 annually |
| 32) Anticipating charging for conciliation | already charging for conciliation and may also ask for reimbursement of long distance phone charges |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | \$42.50 per client/session hour (\$85 per mediation) |
| 35) What is included in estimate | everything |

CONTACTS

| | |
|---------------------------------|---|
| 36) Annual # inquiries | 602 |
| 37) What do you call an inquiry | anyone who calls in asking about mediation services (does not include inquiries about training) |
| 38) Cyclical Pattern | yes; early in the month there are more inquiries than later in the month |
| 39) % to Mediation | 50% |
| 40) % to Conciliation | 5% (self conciliated) |
| 41) % to Arbitration | less than 1% |
| 42) Initiated by Business | 15% |
| 43) Business to Business | 3% (targeted for growth) |
| 44) Person to Person | 80% |
| 45) Business to Person | 17% |

| | |
|--------------------------------|--|
| 46) Referrals from Courts | yes |
| 47) Site at/near courthouse | space given in the courthouse to mediate |
| 48) Who speaks to new contacts | receptionist turns contacts over to trained intake manager as a rule |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | yes; if not appropriate then refer to another source |
| 51) Attempt conciliation | advocate for resolution |
| 52) % conciliation attempted | don't know answer |
| 53) Who contacts Respondents | clients given an option as to who will contact respondent |
| 54) How Respondent contacted | either by center or by initiator |

MEDIATIONS

| | |
|----------------------------------|--|
| 55) Typical length | 2 hour sessions |
| 56) Multiple session cases | 40% of mediations are multiple sessions |
| 57) Which type are multiple | most of these are family mediations or complex business organization cases |
| 58) Solo or co-mediations | Co-mediation 99.9% of the time |
| 59) Co-mediation policy | usually only solo when it there is a followup session |
| 60) Solo ever ok | only under unavoidable conditions ; the exeption to the rule |
| 61) Caucus in mediation | some; usually when involving families with domestic violence or difficult business cases |
| 62) Reason for shuttle mediation | to protect a less powerful (physically; emotionally; intellectually; or financially) party from overwhelming a less powerful party |
| 63) # Annually | 415 mediations (not sessions) |
| 64) Growth rate | 20% |

| | |
|---|--|
| 65) Growth area | past: family (not because of court referrals); present growth: business area and organizational (ex: credit unions; churches; contract mediation; partnering before initiating work on a contract: see each other's faces ; set protocol on how to handle problems and disputes) |
| 66) Portion settled through mediation | 90% + |
| 67) Portion of inquiries which go to mediation | 50% |
| 68) Of the cases which are not mediated what portion is due to the initiator unwillingness to participate? | 33% of the 50% |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | 66% of the 50% |
| 70) % inappropriate for mediation | 1%; this center has many very experienced mediators who can handle even the most difficult types of cases |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | yes |
| 73) alcohol abuse | yes |
| 74) physical abuse | yes; but if there is very violent abuse it may be referred out |
| 75) sexual abuse | yes |
| 76) Other general categories deemed unacceptable | serious mental health problems |
| 77) Formal agreements typed or handwritten | either one; very difficult agreements are usually not written on the spot. Rather they are written by the mediators and then sent to the parties for their signatures. |

| | |
|---|--|
| 78) Who collects payments and assesses charges | intake worker decides how the party should be charged based upon information sought and received from the intake. The mediator receives the payments. |
| 79) C.O.D. | yes; bill clients very infrequently; do not take credit cards |
| 80) The mediators are given any materials with which to go into the mediation | given intake file with amounts to be charged; referring attorney (if any); who each of the parties are; referral source (if any); nature of the complaint from the perspective of each party |
| 81) Use of certified mediators in mediations | always have one certified mediator in every session |
| 82) Base information required or preferred or desirable | no |
| 83) Employ different specialists for different types of mediation | will honor requests but will not initiate any matching except for balancing gender (and race if necessary) |
| Notes: the center always tries to co-mediate with one male and one female mediator in every session and always use a male-female team whenever there are both sexes involved as parties | |

MEDIATORS

| | |
|----------------------------------|--|
| 84) How many volunteer mediators | 52 volunteer mediators; additionally the Center uses student interns very aggressively |
| 85) Any mediators | yes; "master" mediators are paid \$20 per hour (merely an honorarium) given to experienced mediators; there are 6 at present |
| 86) Pay trainers | trainers are paid \$30 per/hr |
| 87) How many in each category | not available |
| 88) Use attorneys | yes |
| 89) paid to mediate | only if they happen to be "master" mediators (no deference given to them because they are attorneys) |
| 90) same rate as other mediators | yes |

| | |
|--|---|
| 91) Portion of mediators with certification | 85% |
| 92) Type of training of mediators | general mediation training and/or family training |
| 93) Extra training given to volunteer mediators | no; just the minimum of general mediation training, see question #94 |
| 94) Offer intra-organizational training (continuing education) | yes; monthly mediator meeting; same meeting held at two different times to accomodate all of the mediators; held on all different types of topics |
| 95) Offer extra-organizational training | mediators are encouraged to attend extra trainings and meetings; scholarships set up to assist mediators with costs |
| 96) Mediators chosen for a particular mediation | always try to pair a more experienced and a less experienced mediator together. |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | one to two months |

RELEASES

| | |
|---------------------------------|---|
| 99) Release forms provided | yes; it is called an agreement to mediate |
| 100) When signed | the agreement to mediate is signed before they ever get into the mediation. The mediator meets them; introduces himself/herself and gives them the form to read and sign. |
| 101) Mediators signs release | no |
| 102) Read out loud by mediator | only if there is an indication that they cannot read it themselves |
| 103) Explained by mediators | no. It will be explained to them by the person with whom they meet if they ask questions |
| 104) item by item | not applicable |
| 105) Copies provided to parties | if requested |

EVALUATION

| | |
|--|--|
| 106) Evaluate effectiveness and satisfaction | yes |
| 107) after every session | no |
| 108) Other types of evaluations that are performed | co-mediator evaluations |
| 109) When performed | done at the end of every mediation |
| 110) Multiple post-mediation evaluations | occasionally |
| 111) when | only in special cases where the mediator or intake person feels follow up is important |
| 112) at what intervals | not applicable |
| 113) If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114) How performed | not applicable |
| 115) Is there follow up to evaluations | yes |
| 116) how | by phone or in person |
| 117) under what circumstances | Director of Mediation Services scrutinizes all evaluations for trends and issues then an appt. is made with the mediator to discuss the situation. |
| 118) Why are they performed | to determine the level of satisfaction; rating mediators; rating process |
| 119) Is the evaluation process productive | yes |
| 120) why | helps improve the mediators |
| 121) Recommendation of how the process should be | not available |
| 122) Are the results scrutinized by another agency | Supreme Court of the Commonwealth of Virginia |
| 123) Who is responsible for performing the mediation evaluations | the mediators |

| | |
|---|---|
| 124) the follow ups | not applicable |
| 125) Who fills out evaluations | al parties |
| 126) Supreme Court required evaluations | center not distributing these evaluations |
| 127) under what circumstances | not applicable |

EMPLOYEES

| | |
|-------------------------------------|--|
| 128)How many paid employees | 6 full time employees; 1 half time training specialist; coming soon part time training coordinator. |
| 129)List major job categories | executive director(trained after accepting the job as a mediator) (full time); director of mediation services(full time); director of training (full time); school mediation director (full time); case manager (full time); training specialist (part time); administrative assistant (full time) |
| 130)How many dedicated to mediation | training director-1/8th; |

VOLUNTEERS

| | |
|-------------------------------|--|
| 131)Volunteers used | yes |
| 132)What jobs do they fill | board members; mediators; a bit as training assistants; occasionally as office staff; just a bit for fund-raising events; would like to use voluteers more actively and creatively |
| 133)Training given volunteers | not applicable |
| 134)Offer in-service training | not applicable |

BOUNDARIES

| | |
|-------------------------------|--|
| 135)Issues with other centers | no |
| 136)resolved | |
| 137)formal agreement | no; just as professional courtesy mostly because clients do not want to have to drive great distances to get to their mediations |

| | |
|---|--|
| 138)Compete with private mediators | yes |
| 139)Compete with other types of ADR centers | yes; there is a "very poorly used" University mediation center which does mostly roommate disputes and has a very light caseload; there is also another mediation center |
| 140)for court contracts | no |
| 141)for other contracts | not available |

MISSION STATEMENT

The CMC provides regional leadership in dispute resolution by enabling individuals, families, business, organizations and communities to work cooperatively to present conflict and to transform conflict into an opportunity for change and growth.

PHILOSOPHY

The philosophy of CMC is that while conflict acts as a healthy and creative force for change, failing to deal with it in a constructive manner damages individual, organizations, and relationships. Often persons avoid open confrontation because they are uncomfortable with conflict or do not have sufficient skills to effectively deal with the situation. Conflict resolution provides these abilities, enabling people to face and creatively channel conflict rather than allowing hostilities to build and situations to get out of hand.

BUDGET

\$282,200

FUTURE PLANS

- need to get into the business arena
- broaden the spectrum of socioeconomic groups using the services of the center; increase the use by those who can bear the full cost of the mediation
- want to do trainings which will generate higher levels of income per training
- “retainer” contracts with companies

Interview with Laurie Grohowski; Norfolk

ORGANIZATION

| | |
|--|---|
| 1) Name | Dispute Settlement Center |
| 2) City | Norfolk |
| 3) Incorporated | yes |
| 4) Environment | urban |
| 5) Geographic Setting | business and residential mix |
| 6) Tax classified | 501(c)(3) |
| 7) Founded | planned in '89; doors opened in '90 |
| 8) Independent Plant | no |
| 9) Square Footage | 3500 |
| 10) Computerized | only for word processing |
| 11) Shared Facility | share facility with the parent organization |
| 12) Parent organization | yes |
| 13) Name of parent | Better Business Bureau |
| 14) Purpose of parent | originally DSC was conceived as a small component of the parent |
| 15) Funding from parent | bookkeeping is given in exchange for PC use, etc. |
| 16) % of funding from parent | 0%, however, BBB gives a monthly stipend of \$500 to DSC |
| 17) Branch or remote sites | yes; courthouse |
| 18) How many branches or remotes | one |
| 19) Type of location of branch or remote | on location site in Norfolk Civil District Court |

FUNDING

| | |
|---|---|
| 20) Source(s) | BBB, court contracts, mediation income, training, corporate contributions |
| 21) Most Significant source(s) of funding | training |
| 22) Charge for Services | yes |

| | |
|---|--|
| 23) Who pays (% of income producing) | all parties (except the court referred cases) |
| 24) Under which circumstances (one/both clients) | both parties |
| 25) By session or hour | by the hour |
| 26) Payments collected by whom (see question #78 below) | the mediator |
| 27) (see question #79 below) | yes |
| 28) Sliding scale | yes |
| 29) basis for reduced fee schedule | gross income |
| 30) substantiation required or requested | no |
| 31) Telephone conciliation | yes |
| 32) Anticipating charging for conciliation | may consider in the future |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | \$490 (approx, \$75 per hour) |
| 35) What is included in estimate | everything is included and then the amount is divided by the # of hours of mediation |

CONTACTS

| | |
|---------------------------------|---|
| 36) Annual # inquiries | 2,696 (mostly telephone) |
| 37) What do you call an inquiry | new phone contact |
| 38) Cyclical Pattern | yes; around the holidays the case load increases |
| 39) % to Mediation | 225 intakes + court referral 181 both parties agreed to mediate closed 81 (didn't schedule) mediated 109 (may not have agreement on them (each session is counted as a case) |
| 40) % to Conciliation | at least 25% |
| 41) % to Arbitration | less than 1% (5 total for the year) |
| 42) Initiated by Business | at least 35% |

| | |
|--------------------------------|--|
| 43) Business to Business | intakes 7 6 opened 2 mediated |
| 44) Person to Person | nearly 50% (125 sessions) |
| 45) Business to Person | there are some but don't know numbers |
| 46) Referrals from courts | yes |
| 47) Site at/near courthouse | yes |
| 48) Who speaks to new contacts | mostly intake worker |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | yes |
| 51) Attempt conciliation | yes |
| 52) % conciliation attempted | about 1% |
| 53) Who contacts respondents | either the intake worker or the initiator |
| 54) How respondent contacted | by phone |

MEDIATIONS

| | |
|---------------------------------------|--|
| 55) Typical length | 2 1/2 hr |
| 56) Multiple Session Cases | yes |
| 57) Which type are multiple | usually family cases |
| 58) Solo or co-mediations | co-mediations |
| 59) Co-mediation policy | yes; prefer to use one certified mediator |
| 60) Solo ever OK | if unavoidable |
| 61) Caucus in mediation | when called for |
| 62) Reason for caucus mediation | if the mediator feels that there is some information which may be shared if both parties are not present |
| 63) # of mediations done annually | 286 sessions (about 250 cases) |
| 64) Growth rate | number doubles each year |
| 65) Growth area | private pay cases, especially commercial |
| 66) Portion settled through mediation | 85-90% |

| | |
|---|--|
| 67) Portion of inquiries which go to mediation | about 50% |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | A few but mostly I go to mediation |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | Cannot be sure but believe that usually it is a problem for the respondent |
| 70) % inappropriate for mediation | it is a sifting process |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | typically not |
| 73) alcohol abuse | typically not |
| 74) physical abuse | against kids-no; no domestic violence |
| 75) sexual abuse | not if children are victims; perhaps if adult victim |
| 76) Other general categories deemed unacceptable | discrimination; they are value laden |
| 77) Formal agreements typed or handwritten | typed whenever possible |
| 78) Who collects payments and assesses charges | coordinator |
| 79) C.O.D. | yes |
| 80) The mediators are given any materials with which to go into the mediation | intake materials; background information; court materials |
| 81) Use of certified mediators in mediations | always for court cases; always for mentoring; otherwise if possible |
| 82) Base information required; preferred; desirable | no |
| 83) Employ different specialists for different types of mediation | no |

MEDIATORS

| | |
|--|--|
| 84) How many volunteer mediators | number varies; some are not active |
| 85) Any paid mediators | yes; one |
| 86) Pay trainers | executive director and other employees do the training |
| 87) How many in each category | not available |
| 88) Use attorneys | yes |
| 89) paid to mediate | no |
| 90) same rate as other mediators | no applicable |
| 91) Portion of mediators with certification | most already are certified or are working toward certification |
| 92) Type of training of mediators | general for most; a few for family |
| 93) Extra training given to the Center's volunteer mediators | none yet |
| 94) Offer intra-organizational training (continuing education) | none yet |
| 95) Offer extra-organizational training | send newsletter about opportunities |
| 96) Mediators chosen for a particular mediation | availability and mentorship are generally what it sought |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | depends upon the availability of the candidate |

RELEASES

| | |
|---------------------------------|--|
| 99) Release forms provided | yes |
| 100) When signed | before starting the mediation |
| 101) Mediators signs release | yes |
| 102) Read out loud by mediator | depends upon the mediator; prefer for them to paraphrase |
| 103) Explained by mediators | yes |
| 104) item by item | yes; in a relaxed manner |
| 105) Copies provided to parties | if they request a copy |

EVALUATION

| | |
|---|---|
| 106)Evaluate effectiveness and satisfaction | yes; use state's form |
| 107)after every session | no; at the end of the mediation |
| 108)Other types of evaluations that are performed | debrief |
| 109)When performed | immediately following mediation |
| 110)Multiple post-mediation evaluations: | none |
| 111)when | n/applicable |
| 112)at what intervals | n/applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | n/applicable |
| 114)How performed | n/applicable |
| 115)Is there follow up to evaluations | sometimes; see #117 |
| 116)how | phone or (for a mediator) in person |
| 117)under what circumstances | if a problem was indicated on the evaluation or with a mediator |
| 118)Why are they performed | to improve satisfaction |
| 119)Is the evaluation process productive | the idea is good |
| 120)why | the instrument is not good |
| 121)Recommendation of how the process should be | there should be a routine follow up evaluation |
| 122)Are the results scrutinized by another agency | Commonwealth; through the evaluations |
| 123)Who is responsible for performing the mediation evaluations | the mediators ask the parties to fill out the forms |
| 124)the follow ups | not applicable |
| 125)Who fills out evaluations | completed mediations (not necessary to come to an agreement to be complete) |
| 126)Supreme Court required evaluations | yes |
| 127)under what circumstances | on all cases |

EMPLOYEES

| | |
|--|--|
| 128)How many paid employees | 4 |
| 129)List major job categories | executive director (24 hrs.); operations manager (24 hrs.);client services coordinator (37 1/2 hrs.); court liaison |
| 130)How many dedicated to mediation | 0 |

VOLUNTEERS

| | |
|-------------------------------|-----------------------------|
| 131)Volunteers used | yes |
| 132)Volunteers paid | no |
| 133)Training given volunteers | office routines; newsletter |
| 134)Offer in-service training | no |

BOUNDARIES

| | |
|--|-----|
| 135)Issues with other centers | no |
| 136)resolved | no |
| 137)formal agreement | no |
| 138)Compete with private mediators or other centers | yes |
| 139)Court contracts | yes |
| 140)Other contracts | yes |
| 141)Compete with others for court contracts | yes |

MISSION STATEMENT

Our mission is to provide Hampton Roads citizens access to dispute resolution processes and education that is cost effective, timely and professional. We embrace the notion that when citizens can manage conflict productively, ultimately our cultural paradigm about violence can also change.

BUDGET

\$120,965

FUTURE PLANS

Institute a 900 number for conciliation. Backcharge for phone time.

Interview with Al Bridger; Richmond

ORGANIZATION

| | |
|----------------------------------|---|
| 1) Name | Dispute Resolution Center |
| 2) City | Richmond |
| 3) Incorporated | yes |
| 4) Environment | urban |
| 5) Geographic Setting | inner city |
| 6) Tax classified | 501(c)(3) |
| 7) Founded | October 1 1987. Joint venture of the Virginia State Bar; the Virginia Bar Association; and the Better Business Bureau (BBB) |
| 8) Independent Plant | no; the center is given (not rented) space by the BBB. The BBB rents space within a high rise office building. |
| 9) Square Footage | 1200 |
| 10) Computerized | yes; for statistics and data; also for agreement writing (macros and boilerplate) |
| 11) Shared Facility | yes |
| 12) Parent organization | Better Business Bureau Foundation of Virginia (supporting the Dispute Resolution Center) |
| 13) Name of parent | Better Business Bureau |
| 14) Purpose of parent | to provide support services/information to the community with regard to businesses and charities. |
| 15) Funding from parent | funding in kind (computers; support staff; office space) |
| 16) % of funding from parent | approximately 27% |
| 17) Branch or remote sites | there is an established presence at some of the court houses |
| 18) How many branches or remotes | 3 |

| | |
|--|--|
| 19) Type of location of branch or remote | Henricho country (2 days per week); Richmond (5 days per week) and Petersburg (1 day per week) |
|--|--|

FUNDING

| | |
|---|---|
| 20) Source(s) | 27% from BBB; of the income: 50% from training; 25% from grants and contributions from corporations; services rendered; 25% from court contracts; fees for services |
| 21) Most Significant source(s) of funding | training (300 people in 1994; 230 people) |
| 22) Charge for Services | yes |
| 23) Who pays (% of income producing) | 20% |
| 24) Under which circumstances (one/both clients) | both |
| 25) By session or hour | by the hour |
| 26) Payments collected by whom (see question #78 below) | staff person |
| 27) (see question #79 below) | yes |
| 28) Sliding scale | yes |
| 29) basis for reduced fee schedule | declared income |
| 30) substantiation required or requested | no |
| 31) Telephone conciliation | yes |
| 32) Anticipating charging for conciliation | yes |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | not available |
| 35) What is included in estimate | not available |
| NOTE: in 1992- 86% of the money coming into the center was from grants; in 1994 only 18% of the money was from grants. That trend will have to be reversed because of the reduction or elimination of contracts from the Supreme Court. | |

CONTACTS

| | |
|---|--|
| 36) Annual # inquiries (see question #67) | several thousands (a minimum of 4000) |
| 37) What do you call an inquiry | any call |
| 38) Cyclical Pattern | information not collected |
| 39) % to Mediation | 6.5% |
| 40) % to Conciliation | about 50% of the increases go to mediation or conciliation |
| 41) % to Arbitration | 44 cases in 1994; 5 in 1993 |
| 42) Initiated by Business | about 50% |
| 43) Business to Business | not available |
| 44) Person to Person | not available |
| 45) Business to Person | not available |
| 46) Referrals from courts | a large proportion |
| 47) Site at/near courthouse | yes |
| 48) Who speaks to new contacts | specific intake people are available to do intake. Everyone in the office does intake. |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | yes |
| 51) Attempt conciliation | yes |
| 52) % conciliation attempted | 941 conciliations in 1994 |
| 53) Who contacts respondents | depends upon the type of case |
| 54) How respondent contacted | depends upon the type of case |

MEDIATIONS

| | |
|---|---|
| 55) Typical length | 2-3 hours |
| 56) Multiple Session Cases | yes |
| 57) Which type are multiple | family cases; these sessions are limited to 2-3 hours |
| 58) Solo or co-mediations | both |
| 59) Co-mediation policy (yes/no; male/female; etc.; certified-one/both) | mediators are assigned by skill level unless the parties have a specific request. |

| | |
|---|---|
| 60) Solo ever ok | yes |
| 61) Caucus in mediation | very rarely |
| 62) Reason for caucus mediation | not applicable |
| 63) # of mediations done annually | 1643 in 1994 |
| 64) Growth rate | not available |
| 65) Growth area | not available |
| 66) Portion settled through mediation | 85-90% |
| 67) Portion of inquiries which go to mediation | not available |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | a low proportion |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | 20% |
| 70) % inappropriate for mediation | "fair amount" |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | no (current or past) because they are impaired |
| 73) alcohol abuse | no (current or past) because they are impaired |
| 74) physical abuse | no (current or past) because they are impaired |
| 75) sexual abuse | no (current or past) because they are impaired |
| 76) Other general categories deemed unacceptable | no |
| 77) Formal agreements typed or handwritten | typed whenever possible |
| 78) Who collects payments and assesses charges | staff person discusses and informs the parties of the financial aspects of mediation. |
| 79) Who collects payments | yes |

| | |
|---|--|
| 80) The mediators are given any materials with which to go into the mediation | no |
| 81) Use of certified mediators in mediations (only in court cases; in all cases; etc) | Every mediation is conducted with at least one certified mediator. |
| 82) Base information required; preferred; desirable | no |
| 83) Employ different specialists for different types of mediation | no |

MEDIATORS

| | |
|--|--|
| 84) How many volunteer mediators | not available |
| 85) Any paid mediators | no |
| 86) Pay trainers | yes |
| 87) How many in each category | not available |
| 88) Use attorneys | yes |
| 89) paid to mediate | no |
| 90) same rate as other mediators | not applicable |
| 91) Portion of mediators with certification | not available |
| 92) Type of training of mediators | as directed by the Supreme Court for certification |
| 93) Extra training given to the Center's volunteer mediators | no |
| 94) Offer intra-organizational training (continuing education) | no |
| 95) Offer extra-organizational training | no |
| 96) Mediators chosen for a particular mediation | no |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | relative to the potential of the mentoree. |

RELEASES

| | |
|----------------------------|-----|
| 99) Release forms provided | yes |
|----------------------------|-----|

| | |
|--------------------------------|---------------------------------------|
| 100)When signed | at the beginning of the first session |
| 101)Mediators signs release | yes |
| 102)Read out loud by mediator | yes |
| 103)Explained by mediators | the mediators paraphrase |
| 104)item by item | yes |
| 105)Copies provided to parties | yes |

EVALUATION

| | |
|---|--|
| 106)Evaluate effectiveness and satisfaction | yes |
| 107)after every session | no |
| 108)Other types of evaluations that are performed | oral and written evaluation are done by graduate students |
| 109)When performed | at the end of the mediation |
| 110)Multiple post-mediation evaluations: | no |
| 111)when | not applicable |
| 112)at what intervals | not applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114)How performed | not applicable |
| 115)Is there follow up to evaluations | yes |
| 116)how | the clients may be contacted after the mediation |
| 117)under what circumstances | if the evaluation reflects a problem with the mediation then the director follows up with the clients and the mediators. |
| 118)Why are they performed | to evaluate the mediators' performance and the clients' satisfaction with the mediation. |
| 119)Is the evaluation process productive | yes |
| 120)why | not available |
| 121)Recommendation of how the process should be | there should be multiple evaluations over a period of time |

| | |
|---|--|
| 122)Are the results scrutinized by another agency | no |
| 123)Who is responsible for performing the mediation evaluations | graduate students |
| 124)the follow ups | not applicable (the director follows up when there is a problem) |
| 125)Who fills out evaluations | the parties |
| 126)Supreme Court required evaluations | no longer performed because there are no more court contracts. |
| 127)under what circumstances | not applicable |

EMPLOYEES

| | |
|-------------------------------------|--|
| 128)How many paid employees | the center pays for 1 full time employee and one employee at 30 hrs/week. The parent organization- the BBB- pays for 2 full time employees to work for the center as well |
| 129)List major job categories | the 2 employees paid by the BBB are responsible for intake and case review. 30 hr/week employee is court; department of housing; and miscellaneous case work. The director is in charge of administration; training; fundraising; etc. |
| 130)How many dedicated to mediation | when there were court contracts there was another full time employee who was completely dedicated to mediation. |

VOLUNTEERS

| | |
|-------------------------------|--|
| 131)Volunteers used | yes; non mediation volunteers are working in the office for a total of about 40 hrs/week |
| 132)Volunteers paid | no |
| 133)Training given volunteers | no |
| 134)Offer in-service training | no |

BOUNDARIES

| | |
|---|--|
| 135)Issues with other centers | no |
| 136)resolved | not applicable |
| 137)formal agreement | no |
| 138)Compete with private mediators or other centers | yes |
| 139)Court contracts | no; the majority (70%) of the cases that the center offers fall into this category. Private mediators don't want to handle pro bono cases. |
| 140)Other contracts | yes |
| 141)Compete with others for court contracts | no |

MISSION STATEMENT

To provide mediation and arbitration services to resolve a variety of disputes including those between businesses; neighbors; consumers/businesses; landlord/tenant; and to families in conflict. The center also provides training to individuals in mediation and arbitration skills.

FUTURE PLANS

contract service policies to corporations

BUDGET

\$121,000

Interview with Roanoke agency executive director; Kathy Stockburger

ORGANIZATION

| | |
|-------------------------|--|
| 1) Name | Conflict Resolution Center Inc. |
| 2) City | Roanoke Virginia. |
| 3) Incorporated | yes; |
| 4) Environment | urban |
| 5) Geographic Setting | in the city of Roanoke |
| 6) Tax classified | 501(c)(3) |
| 7) Founded | by a core group of interested professionals (attorneys; judges; therapists; social workers) in response to mission to study the courts' future formed the organization in 1988. Open for business about 20 months later in October 1991. |
| 8) Independent Plant | no; the other organization is a complementary use and the agency leases space from the owner/landlord. The lease is for \$1 annually plus utilities. |
| 9) Square Footage | approximately 600 sq. ft. |
| 10) Computerized | personal computers at homes with two staff members (the executive director and the intake specialist) for the generation of documents. Contributors are not stored on the computer. There is hardware recently acquired which will increase the kinds of data managed on computer. The organization looks forward to buying a software package which will do comprehensive agency data management. Case management; filtering of statistics; volunteer management; automatic correspondence generation |
| 11) Shared Facility | plant-yes; facility-no |
| 12) Parent organization | no |

| | |
|--|---|
| 13) Name of parent | not applicable |
| 14) Purpose of parent | not applicable |
| 15) Funding from parent | not applicable |
| 16) % of funding from parent | not applicable |
| 17) Branch or remote sites | do mediations at the courthouse (cases involving violence or physical abuse) although these mediations are scheduled there and there is never anyone sitting in the courthouse waiting for cases. |
| 18) How many branches or remotes | none |
| 19) Type of location of branch or remote | not applicable |

FUNDING

| | |
|--|--|
| 20) Source(s) | fees; training; grants (city and state); and contributions |
| 21) Most Significant source(s) of funding | 70% of the funding is generated fees and mediation each bring in about equal amounts of revenue for a total of \$22000 (1992-1993). The reported revenue for these services is expected to rise significantly for fiscal year '93-'94. Contributions (public and private) total 15%. |
| 22) Charge for Services | yes |
| 23) Who pays (% of income producing) | 95% (2 1/2% are predetermined to be pro bono; the other 2 1/2% are done gratis as the mediation unfolds and calls for gratis work). |
| 24) Under which circumstances (one/both clients) | in some cases only one party will pay for both party (by the party's offer). It is rare to have one party pay and the other party be pro bono. |
| 25) By session or hour | by the hour in 1/2 hr. increments (this includes crafting the agreement but not typing the agreement). |
| 26) Payments collected by whom | (see question #78 below) |
| 27) C.O.D. | (see question #79 below) |

| | |
|---|---|
| 28) Sliding scale | yes |
| 29) basis for reduced fee schedule | income or circumstance |
| 30) substantiation required or requested | no |
| 31) Telephone conciliation | no |
| 32) Anticipating charging for conciliation | yes |
| 33) Backcharge for phone time during intake | never considered this possibility but if parties cancel with less than 24 hrs. notice they are billed for 1 hr. of mediation. |
| 34) Cost per completed mediation | not enough to cover the cost of court mediation. |
| 35) What is included in estimate | not applicable |

CONTACTS

| | |
|---------------------------------|--|
| 36) Annual # inquiries | [100 projected] 50 annually |
| 37) What do you call an inquiry | a telephone call that does not come to mediation |
| 38) Cyclical Pattern | no (in the first year there was a cyclical pattern). Divorce cases have a tendency to come in in the spring of the year. |
| 39) % to Mediation | 50% |
| 40) % to Conciliation | 5% |
| 41) % to Arbitration | 0% |
| 42) Initiated by Business | very small |
| 43) Business to Business | very small |
| 44) Person to Person | 10% (neighborhood disputes) |
| 45) Business to Person | very small |
| 46) Referrals from courts | 70%, most person to person cases are court referred |
| 47) Site at/near courthouse | |
| 48) Who speaks to new contacts | intake specialist (with court referrals the center will be proactive and call the parties first. |
| 49) Trained as mediators | yes |

| | |
|-------------------------------|--|
| 50) Assess case for mediation | yes but tries not to mediate cases which she has done intake |
| 51) Attempt conciliation | yes |
| 52) % conciliation attempted | not available |
| 53) Who contacts respondents | the center |
| 54) How respondent contacted | by phone |

MEDIATIONS

| | |
|-----------------------------------|---|
| 55) Typical length | sessions are expected to be not longer than 2 hrs but frequently are significantly longer than that if all parties are able and willing to proceed. The mediations generally last 2 1/2 sessions for all types of cases |
| 56) Multiple Session Cases | yes; however most of the center's cases are family cases. |
| 57) Which type are multiple | all types |
| 58) Solo or co-mediators | co-mediation |
| 59) Co-mediation policy | yes; the policy is in place because the center feels the a) the parties get a better product and b) it is safer for all involved if there are two mediators. |
| 60) Solo ever ok | in an emergency on subsequent sessions (not on the first session). In this case the mediators have the obligation to keep the other mediator informed as to the case development. |
| 61) Caucus in mediation | yes |
| 62) Reason for caucus mediation | when a mediator senses that there is some apprehension or fear on the part of one of the parties to share information in open session |
| 63) # of mediations done annually | 99 (for '93-'94) |
| 64) Growth rate | '92-'93 growth rate about 25% |
| 65) Growth area | court referred family cases |

| | |
|---|---|
| 66) Portion settled through mediation | 75% |
| 67) Portion of inquiries which go to mediation | |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | none |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | 5% |
| 70) % inappropriate for mediation | not available |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | not if this is a current concern |
| 73) alcohol abuse | not if this is a current concern |
| 74) physical abuse | not if this is a current concern; the general rule is that the center does not take abuse cases |
| 75) sexual abuse | not if this is a current concern; the general rule is that the center does not take abuse cases |
| 76) Other general categories deemed unacceptable | no |
| 77) Formal agreements typed or handwritten | generally typed from the mediators hand-written agreement. |
| 78) Who collects payments and assesses charges | the staff of the center always assesses payments and usually receives payments. |
| 79) Who collects payments | no; the center bills clients (center takes charge cards) |
| 80) The mediators are given any materials with which to go into the mediation | yes; for each mediation the mediators are given a check list and any relevant information |
| 81) Use of certified mediators in mediations | only in court referred cases |
| 82) Base information required; preferred; desirable | not available |

| | |
|--|---|
| 83) Employ different specialists for different types of mediation | yes (attorneys for business cases; therapists for abuse cases; gender specific assignments for certain cases; etc.) |
| <p>Notes: A standards of ethics is in place at the center so that the onus of reporting suspected abuse or potential for abuse is upon the mediator. A disclaimer for release of this information is in the standard release form that all parties sign before mediating. Shuttle mediation is performed in abuse or extreme anger cases where the court insists that the center hears the case the center does shuttle mediation (only one party or the other is at the mediation on a particular day). the shuttle mediation is done for the protection of the individuals and the mediators. These cases are always heard at the courthouse with bailiffs within earshot. The additional concern in these cases is that there will be retribution at some time in the future.</p> | |

MEDIATORS

| | |
|--|---|
| 84) How many volunteer mediators | 24 currently |
| 85) Any paid mediators | no |
| 86) Pay trainers | not available |
| 87) How many in each category | not available |
| 88) Use attorneys | yes |
| 89) paid to mediate | no |
| 90) same rate as other mediators | not applicable |
| 91) Portion of mediators with certification | not available |
| 92) Type of training of mediators | basic training (most have family training as well) |
| 93) Extra training given to the Center's volunteer mediators | yes; mandatory training is provided to all mediators in ethics and child abuse awareness and continuing education requirement of 8 hours annually. There is no charge for active mediators of the center to take these courses. |
| 94) Offer intra-organizational training (continuing education) | yes |
| 95) Offer extra-organizational training | no |

| | |
|--|--------------------|
| 96) Mediators chosen for a particular mediation | not available |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | takes about 1 year |

RELEASES

| | |
|---------------------------------|---|
| 99) Release forms provided | yes (and an agreement to mediate) |
| 100) When signed | once, at the beginning of the mediation |
| 101) Mediators signs release | yes |
| 102) Read out loud by mediator | yes |
| 103) Explained by mediators | yes |
| 104) item by item | yes |
| 105) Copies provided to parties | yes |

EVALUATION

| | |
|--|---|
| 106) Evaluate effectiveness and satisfaction | yes |
| 107) after every session | no; after the completion of the mediation |
| 108) Other types of evaluations that are performed | no |
| 109) When performed | not applicable |
| 110) Multiple post-mediation evaluations: | there is a phone call is made after the mediation to touch base with the parties. |
| 111) when | about one week later |
| 112) at what intervals | not applicable |
| 113) If multiple evaluations are performed is there a significant difference over time | there was a one time a study done and the longer the time periods that have gone by the less satisfied they report they are |
| 114) How performed in person; mail; phone | mail |
| 115) Is there follow up to evaluations | only if it they are signed and contain negative comments. |

| | |
|---|---|
| 116)how | a phone call is made to the party |
| 117)under what circumstances (routinely; in cases of dissatisfaction; randomly) | a mediator will be reviewed based upon a negative evaluation by a party. |
| 118)Why are they performed | to asses client and program satisfaction and find areas of needed improvement |
| 119)Is the evaluation process productive | yes; in finding problems with mediators working with one another or a problem with a particular mediator |
| 120)why | the Supreme Court instrument is very poor and the anticipated co-mediator evaluations have not yet been put into place |
| 121)Recommendation of how the process should be | use an excellent evaluation instrument and then implement a standardized procedure for distributing the evaluation instrument and retaining the information obtained from the form. The process would be much more highly structured than it is now. The purpose of this evaluation would be to evaluate the mediators' work. |
| 122)Are the results scrutinized by another agency | just the Supreme Court |
| 123)Who is responsible for performing the mediation evaluations | the staff of the center |
| 124)the follow ups | the staff of the center |
| 125)Who fills out evaluations completed mediations; all intakes | anyone who participates in the mediation |
| 126)Supreme Court required evaluations | yes |
| 127)under what circumstances | for all court referred and non-court cases |

EMPLOYEES

| | |
|-------------------------------------|--|
| 128)How many paid employees | 3 paid (one- 3/4 time; one- 1/2 time; one 16 hours weekly |
| 129)List major job categories | executive director and two assistants |
| 130)How many dedicated to mediation | .5% |

VOLUNTEERS

| | |
|-------------------------------|--------------------------------|
| 131)Volunteers used | yes |
| 132)Volunteers paid | no |
| 133)Training given volunteers | no structured training offered |
| 134)Offer in-service training | no |

BOUNDARIES

| | |
|---|----------------|
| 135)Issues with other centers | no |
| 136)resolved | not applicable |
| 137)formal agreement | not applicable |
| 138)Compete with private mediators or other centers | no |
| 139)Court contracts | no |
| 140)Other contracts | no |
| 141)Compete with others for court contracts | no |

MISSION STATEMENT

The mission of the Conflict Resolution Center is to provide the Roanoke Valley and surrounding areas with more cooperative and less formal methods of dispute resolution than traditional court processes, and to educate the public about these alternative methods. Such methods, which include mediation and arbitration, help people to maintain mutual respect, to address their real concern in a constructive manner, to retain appropriate control of the dispute resolution process, and to expend a minimum amount of time, energy, and money. The services are intended

to be affordable to all people who seek them. In sum, the goal of the Center is to increase public awareness of and access to alternative methods of conflict resolution.

Budget

\$32,600

Interview with Dr. James Gilman; President

Organization

| | |
|--|---|
| 1) Name | Augusta Center for Mediation |
| 2) City | Staunton (main facility) and Waynesboro |
| 3) Incorporated | yes |
| 4) Environment | small town |
| 5) Geographic Setting | university town; rural surroundings |
| 6) Tax classified | 501(c)(3) |
| 7) Founded | 1990 |
| 8) Independent Plant | no |
| 9) Square Footage | total of 2 offices is approximately 700 square feet |
| 10) Computerized | some things are computerized |
| 11) Shared Facility | yes; cooperative office suite |
| 12) Parent organization | none |
| 13) Name of parent | not applicable |
| 14) Purpose of parent | not applicable |
| 15) Funding from parent | not applicable |
| 16) % of funding from parent | not applicable |
| 17) Branch or remote sites | yes |
| 18) How many branches or remotes | 2 |
| 19) Type of location of branch or remote | Waynesboro is a branch office; the courthouse is a remote site. |

FUNDING

| | |
|---|--|
| 20) Source(s) | see #21 |
| 21) Most Significant source(s) of funding | 40% from private seed grants (IOLTA; etc.); 30% private contributions; 15% fees (including Supreme Court contracts); 10% fundraisers; Staunton and Waynesboro City Governments |
| 22) Charge for Services | yes |

| | |
|---|--|
| 23) Who pays (% of income producing) | 100% of cases are income producing; there is a minimum payment of \$5 per party/per session |
| 24) Under which circumstances (one/both clients) | both |
| 25) By session or hour | session (approximately 2 hour sessions) |
| 26) Payments collected by whom (see question #78 below) | mediators perform this function |
| 27) (see question #79 below) | yes |
| 28) Sliding scale | yes |
| 29) basis for reduced fee schedule | income |
| 30) substantiation required or requested | no |
| 31) Telephone conciliation | not available |
| 32) Anticipating charging for conciliation | no |
| 33) Backcharge for phone time during intake | no (the center has been forced to only do intake in person; the problem was the amount of time it took to do the telephone intake and schedule the mediation: the parties would frequently not show up for the actual mediation) |
| 34) Cost per completed mediation | not available |
| 35) What is included in estimate | not applicable |

CONTACTS

| | |
|---------------------------------|----------------------------------|
| 36) Annual # inquiries | 75 (this number is increasing) |
| 37) What do you call an inquiry | anyone who calls for information |
| 38) Cyclical Pattern | not available |
| 39) % to Mediation | not available |
| 40) % to Conciliation | not applicable |
| 41) % to Arbitration | not available |
| 42) Initiated by Business | 2% |
| 43) Business to Business | none |
| 44) Person to Person | 95% |

| | |
|--------------------------------|---|
| 45) Business to Person | 2% |
| 46) Referrals from courts | yes |
| 47) Site at/near courthouse | volunteer at the courthouse who does intake |
| 48) Who speaks to new contacts | intake/secretary person |
| 49) Trained as mediators | has taken training |
| 50) Assess case for mediation | yes |
| 51) Attempt conciliation | no |
| 52) % conciliation attempted | not applicable |
| 53) Who contacts respondents | intake person (intake is done in person at the center; each of the parties come into the center (separately)) |
| 54) How respondent contacted | by phone after the initiator has told the respondent that they are interested in having the case mediated. |

MEDIATIONS

| | |
|--|---|
| 55) Typical length | 2 hours |
| 56) Multiple Session Cases | 30-35% |
| 57) Which type are multiple | not available |
| 58) Solo or co-mediations | co-mediations |
| 59) Co-mediation policy | try to do male/female team; co-mediation only |
| 60) Solo ever ok | no |
| 61) Caucus in mediation | yes |
| 62) Reason for caucus mediation | to get full disclosure of information |
| 63) # of mediations done annually | 45 |
| 64) Growth rate | substantial |
| 65) Growth area | court referred cases |
| 66) Portion settled through mediation | 75% |
| 67) Portion of inquiries which go to mediation | not available |

| | |
|---|-----------------------------------|
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | 5-10% |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | 15-20% |
| 70) % inappropriate for mediation | very small |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | yes |
| 73) alcohol abuse | yes |
| 74) physical abuse | no |
| 75) sexual abuse | no |
| 76) Other general categories deemed unacceptable | suicidal clients |
| 77) Formal agreements typed or handwritten | typed |
| 78) Who collects payments and assesses charges | mediators perform these functions |
| 79) | yes |
| 80) The mediators are given any materials with which to go into the mediation | no |
| 81) Use of certified mediators in mediations | always for court cases |
| 82) Base information required; preferred; desirable | no |
| 83) Employ different specialists for different types of mediation | no |
| Notes: 75% of the cases mediated by the center are family cases | |

MEDIATORS

| | |
|----------------------------------|----------------|
| 84) How many volunteer mediators | not available |
| 85) Any paid mediators | no |
| 86) Pay trainers | not applicable |

| | |
|---|---|
| 87)How many in each category | most all are family mediators |
| 88)Use attorneys | no |
| 89)paid to mediate | not applicable |
| 90)same rate as other mediators | not applicable |
| 91)Portion of mediators with certification | most |
| 92)Type of training of mediators | in order to do the family mediation they have to have family training |
| 93)Extra training given to the Center's volunteer mediators | none |
| 94)Offer intra-organizational training (continuing education) | no |
| 95)Offer extra-organizational training | the center does not offer training of any kind in-house. |
| 96)Mediators chosen for a particular mediation | not available |
| 97)Mentorship program available | no |
| 98)How long does it generally take to be mentored | not applicable |

RELEASES

| | |
|--------------------------------|--|
| 99)Release forms provided | yes |
| 100)When signed | at intake (which is done at a different time than the mediation) |
| 101)Mediators signs release | no |
| 102)Read out loud by mediator | no |
| 103)Explained by mediators | it is explained by the intake worker |
| 104)item by item | not available |
| 105)Copies provided to parties | not available |

EVALUATION

| | |
|---|--|
| 106)Evaluate effectiveness and satisfaction | for effectiveness only |
| 107)after every session | no |
| 108)Other types of evaluations that are performed | the mediators do an immediate debriefing following the session |

| | |
|---|--|
| 109)When performed | immediately after the first session only |
| 110)Multiple post-mediation evaluations: | no |
| 111)when | not applicable |
| 112)at what intervals | not applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114)How performed | not applicable |
| 115)Is there follow up to evaluations | no |
| 116)how | not applicable |
| 117)under what circumstances | not applicable |
| 118)Why are they performed | not applicable |
| 119)Is the evaluation process productive | not applicable |
| 120)why | not applicable |
| 121)Recommendation of how the process should be | would do a post-mediation follow up (several months later) to see if the clients are still satisfied and to see if the agreement is holding. |
| 122)Are the results scrutinized by another agency | only the Supreme Court on court referred cases |
| 123)Who is responsible for performing the mediation evaluations | the mediators |
| 124)the follow ups | not applicable |
| 125)Who fills out evaluations | completed first session mediation parties |
| 126)Supreme Court required evaluations | yes |
| 127)under what circumstances | only on court cases |

EMPLOYEES

| | |
|-------------------------------|---|
| 128)How many paid employees | 128)part time (20 hours each) |
| 129)List major job categories | 129)director (administration; public relation; marketing; fundraising |

| | |
|-------------------------------------|--------------------------------|
| | annd grant writing) and intake |
| 130)How many dedicated to mediation | 130) |

VOLUNTEERS

| | |
|-------------------------------|----------------------------------|
| 131)Volunteers used | only as mediators, not in office |
| 132)Volunteers paid | no |
| 133)Training given volunteers | not applicable |
| 134)Offer in-service training | not applicable |

BOUNDARIES

| | |
|---|----------------|
| 135)Issues with other centers | no |
| 136)resolved | not applicable |
| 137)formal agreement | not applicable |
| 138)Compete with private mediators or other centers | no |
| 139)Court contracts | not applicable |
| 140)Other contracts | not applicable |
| 141)Compete with others for court contracts | no |

MISSION STATEMENT

| |
|---|
| To provide mediation services and training to all members of the community and to promote peaceable conflict resolution |
|---|

BUDGET

| |
|---------------|
| not available |
|---------------|

Interview with Patti Cloud; President Warrenton

Organization

| | |
|--|---|
| 1) Name | Piedmont Dispute Resolution Center |
| 2) City | Warrenton |
| 3) Incorporated | yes |
| 4) Environment | rural |
| 5) Geographic Setting | located in a small northwestern Virginia town and also serves surrounding counties |
| 6) Tax classified | 501(c)(3) |
| 7) Founded | 1991 as a satellite office of Fredricksburg; Incorporated 1/93 (in January 1992 established independence as a CDRC. Still maintain a relationship with Rappahannock; share mailing lists; share mediators; exchange information; training done cooperatively (including sharing assets); etc. The two centers are 45 minutes apart. "It is cooperative relationship.) |
| 8) Independent Plant | no |
| 9) Square Footage | 443 sq. ft. |
| 10) Computerized | used for client files; mailing list; design of brochure. |
| 11) Shared Facility | no |
| 12) Parent organization | not applicable |
| 13) Name of parent | not applicable |
| 14) Purpose of parent | not applicable |
| 15) Funding from parent | not applicable |
| 16) % of funding from parent | not applicable |
| 17) Branch or remote sites | no |
| 18) How many branches or remotes | not applicable |
| 19) Type of location of branch or remote | not applicable |

FUNDING

| | |
|--|--|
| 20) Source(s) | contributions and grants (such as Virginia Law Foundation and Piedmont United Way); services rendered; contributions of office equipment and computer and reduced rent agreements for office space; county pays the center for school peer mediation training.s. |
| 21) Most Significant source(s) of fund | Virginia Law Foundation gave a \$25,000 grant (as seed money) in July, 1994. |
| 22) Charge for Services | All cases are income producing (clients are charged on a sliding scale); the court cases represent 2/3 of the cases; everyone pays something. |
| 23) Who pays (% of income producing) | every client or the court in their stead. |
| 24) Under which circumstances (one/both clients) | all circumstances |
| 25) By session or hour | hourly |
| 26) Payments collected by whom | mediator |
| 27) (see question # 80 below) | yes |
| 28) Sliding scale | Yes; every client pays something (except court referred cases). The minimum payment is \$5 hourly per party. The maximum pament per party is \$60 per hour. Unless the court is paying for a mediation |
| 29) basis for reduced fee schedule | reported income |
| 30) substantiation required or requested | none |
| 31) Telephone conciliation | not applicable |
| 32) Anticipating charging for conciliation | no |
| 33) Backcharge for phone time during intake | no |
| 34) Cost per completed mediation | \$80-\$100 per completed mediation. |

| | |
|----------------------------------|--|
| 35) What is included in estimate | #34 refers to the amount of revenue assessed to the parties for the total length of the mediation. |
|----------------------------------|--|

CONTACTS

| | |
|---------------------------------|---|
| 36) Annual # inquiries | not available |
| 37) What do you call an inquiry | not available |
| 38) Cyclical Pattern | seems to come in spurts; increases are noted a month into the school year; at the end of the school year and after the holidays. Summer months are slow for mediations. |
| 39) % to Mediation | approximately 50-60% (including court referred work) |
| 40) % to Conciliation | 0% |
| 41) % to Arbitration | 0% |
| 42) Initiated by Business | very small number of cases; some landlord tenant |
| 43) Business to Business | only one |
| 44) Person to Person | almost all of the cases |
| 45) Business to Person | not available |
| 46) Referrals from courts | yes |
| 47) Site at/near courthouse | informal arrangement with the clerk of the court |
| 48) Who speaks to new contacts | either voice mail or the intern receives the phone call. The calls are returned by either the director or by the president. |
| 49) Trained as mediators | yes |
| 50) Assess case for mediation | the person who does the intake also does the assessment (see #48) |
| 51) Attempt conciliation | no |
| 52) % conciliation attempted | not applicable |
| 53) Who contacts respondents | either the intern or the director |
| 54) How respondent contacted | in most instances the center makes the contact |

MEDIATIONS

| | |
|---|--|
| 55) Typical length | 2 1/2-3 hrs. |
| 56) Multiple Session Cases | sometimes |
| 57) Which type are multiple | not available |
| 58) Solo or co-mediators | try to have two mediators |
| 59) Co-mediation policy | yes; attempt to have a male and a female. |
| 60) Solo ever ok | when necessary |
| 61) Caucus in mediation | not available |
| 62) Reason for caucus mediation | not available |
| 63) # of mediations done annually | 1993- 23 cases; 1994- 35 |
| 64) Growth rate | 50% |
| 65) Growth area | not available |
| 66) Portion settled through mediation | almost all cases (80-85%) with the exception of parent/adolescent cases are settled; parent/adolescent 40-50% (20% of the center's cases are of this type) |
| 67) Portion of inquiries which go to mediation | not available |
| 68) Of the cases which are not mediated what portion is due to the initiator's unwillingness to participate? | not available |
| 69) Of the cases which are not mediated what portion is due to the respondent's unwillingness to participate? | not available |
| 70) % inappropriate for mediation | not available |
| 71) Divorce mediation | yes |
| Mediate cases involving: | |
| 72) drug abuse | yes |
| 73) alcohol abuse | yes |
| 74) physical abuse | if there is a protective order from the court the center will not mediate; otherwise the center will mediate |

| | |
|--|--|
| 75)sexual abuse | no |
| 76)Other general categories deemed unacceptable | no |
| 77)Formal agreements typed or handwritten | typed |
| 78)Who collects payments and assesses charges | center assesses and mediator collects |
| 79)Who collects payment | yes (they are informed at the initial contact that they will be asked to pay at the session) |
| 80)The mediators are given any materials with which to go into the mediation | a proper introduction and an overview of the ground rules is done there is a "cheat sheet" available to be used. |
| 81)Use of certified mediators in mediations | the center always uses at least one certified mediator in each mediation even if it is not court ordered. |
| 82)Base information required; preferred; desirable | not available |
| 83)Employ different specialists for different types of mediation | not available |

Mediators

| | |
|---|---|
| 84)How many volunteer mediators | 12-14 active mediators are currently being used |
| 85)Any paid mediators | no |
| 86)Pay trainers | yes |
| 87)How many in each category | not available |
| 88)Use attorneys | not available |
| 89)paid to mediate | not applicable |
| 90)same rate as other mediators | not available |
| 91)Portion of mediators with certification | 100% |
| 92)Type of training of mediators | general training from other centers |
| 93)Extra training given to the Center's volunteer mediators | not available |
| 94)Offer intra-organizational training (continuing education) | not available |

| | |
|--|---------------|
| 95) Offer extra-organizational training | not available |
| 96) Mediators chosen for a particular mediation | not available |
| 97) Mentorship program available | yes |
| 98) How long does it generally take to be mentored | not available |

RELEASES

| | |
|---------------------------------|---|
| 99) Release forms provided | yes; called a consent form |
| 100) When signed | not available |
| 101) Mediators signs release | yes |
| 102) Read out loud by mediator | to be sure that the parties are literate enough to understand the written form the policy is to read the form verbatim. |
| 103) Explained by mediators | questions are sought; if the parties have any questions they are answered at this time. |
| 104) item by item | no |
| 105) Copies provided to parties | not usually |

EVALUATION

| | |
|--|--|
| 106) Evaluate effectiveness and satisfaction | yes |
| 107) after every session | yes |
| 108) Other types of evaluations that are performed | both the state form (for court ordered cases) and the center's form are used. For non-court cases the center form is used exclusively. Mediators also evaluate each other. |
| 109) When performed | while the agreement is being typed |
| 110) Multiple post-mediation evaluations: | no |
| 111) when | not applicable |
| 112) at what intervals | not applicable |

| | |
|---|--|
| 113)If multiple evaluations are performed is there a significant difference over time | not applicable |
| 114)How performed in person; mail; phone | in person |
| 115)Is there follow up to evaluations | no |
| 116)how | not applicable |
| 117)under what circumstances | not applicable |
| 118)Why are they performed | for quality control and to allow the parties to review the process for their own enlightenment |
| 119)Is the evaluation process productive | yes |
| 120)why | it makes the parties examine the process to see how it has helped them |
| 121)Recommendation of how the process should be | would like to do post mediation evaluations |
| 122)Are the results scrutinized by another agency | no |
| 123)Who is responsible for performing the mediation evaluations | the mediators of the case |
| 124)the follow ups | not applicable |
| 125)Who fills out evaluations | everyone does at end of each session |
| 126)Supreme Court required evaluations | yes |
| 127)under what circumstances | court ordered cases are evaluated by the Virginia Supreme Court |
| Note: the mediators also evaluate each other | |

EMPLOYEES

| | |
|-------------------------------|---|
| 128)How many paid employees | in the coming year there will be enough money for 2 part time employees due the to Virginia Law Foundation grant. |
| 129)List major job categories | not applicable |

| | |
|-------------------------------------|------|
| 130)How many dedicated to mediation | none |
|-------------------------------------|------|

VOLUNTEERS

| | |
|-------------------------------|---|
| 131)Volunteers used | in this organization even the director is a volunteer. "We've gotten to where we are today on volunteer efforts." There is no paid staff. |
| 132)Volunteers paid | the director has been paid occasionally for some special projects. |
| 133)Training given volunteers | not available |
| 134)Offer in-service training | yes |

BOUNDARIES

| | |
|---|--|
| 135)Issues with other centers | no |
| 136)resolved | not applicable |
| 137)formal agreement | not applicable |
| 138)Compete with private mediators or other centers | no |
| 139)Court contracts | not in reality although the parties who are given a choice of all the registered certified mediators |
| 140)Other contracts | no |
| 141)Compete with others for court contracts | the center doesn't have a contract with the court but is on their referral list. |

MISSION STATEMENT

| |
|--|
| Primary Goals: to educate the public to the benefits of mediation on a very personal level; bring mediation down to a family and home level situation. |
| note: the Warrenton center had recently branched off from the Fredricksburg center. Therefore, although their new information was not ready it is worthwhile providing the Fredricksburg mission statement: |
| The Rappahannock Mediation Center is dedicated to providing mediation services, conflict management and resolution training to empower |

individuals to amicably resolve their conflict using, when required, qualified third party mediators. The Center serves the Rappahannock River basin its tributaries.

BUDGET

\$20,923

APPENDIX 2

OVERVIEW OF CITY SURVEYS

BOUNDARIES

| Boundaries | Charlottes | Fairfax | Fredricks |
|---|----------------------------|--|---|
| 135)Issues with other centers | no | they are developing and will require some working out in the future. | yes |
| 136)resolved | not applicable | there is an unwritten understanding and each of the organizations is scrambling to cover their own geographic area | yes |
| 137)formal agreement | no | not applicable | yes |
| 138)Compete with private mediators or other centers | yes with private mediators | other organizations do compete for training opportunities across geographic boundaries. | yes; however, this is not a problem nor problematic |
| 139)Court contracts | yes | yes; however private mediators cannot afford to take a court case because it is such poor pay. | yes; however, the work at the court is not cost effective because the evaluation is <i>pro bono</i> . Only the mediation itself is paid by the Supreme Court. |
| 140)Other contracts | yes | no. | Not applicable |

| Boundaries | Charlottes | Fairfax | Fredricks |
|---|------------|---------|-----------|
| 141)Compete with others for court contracts | yes | no | no |

BOUNDARIES

| Boundaries | Harrison | Norfolk | Richmond |
|---|--|---------|--|
| 135)Issues with other centers | no | no | no |
| 136)resolved | not applicable | no | not applicable |
| 137)formal agreement | no; just as professional courtesy mostly because clients do not want to have to drive great distances to get to their mediations | no | no |
| 138)Compete with private mediators or other centers | yes | yes | yes |
| 139)Court contracts | yes; there is a "very poorly used" University mediation center which does mostly roommate disputes and has a very light caseload; there is also another mediation center | yes | no the majority (70%) of the cases that the center offers fall into this category. Private mediators don't want to handle <i>pro bono</i> cases. |
| 140)Other contracts | no | yes | yes |
| 141)Compete with others for court contracts | no | yes | no |

BOUNDARIES

| Boundaries | Roanoke | Staunton | Warrenton |
|---|----------------|----------------|--|
| 135)Issues with other centers | no | no | no |
| 136)resolved | not applicable | not applicable | not applicable |
| 137)formal agreement | not applicable | not applicable | not applicable |
| 138)Compete with private mediators or other centers | no | no | no |
| 139)Court contracts | no | not applicable | not in reality although the parties who are given a choice of all the registered certified mediators |
| 140)Other contracts | no | not applicable | no |
| 141)Compete with others for court contracts | no. | no | the center doesn't have a contract with the court but is on their referral list. |

CONTACTS

| Contacts | Charlottes | Fairfax | Fredricks |
|--------------------------------------|-------------------------------------|--|---|
| 36) Annual inquiries ⁴⁶ # | not available ⁴⁷ | probably around 500 | approximately 4 per week |
| 37) What do you call an inquiry | not available | phone contact; a registered complaint | any contact with the center ⁴⁸ |
| 38) Cyclical Pattern | increases around Christmas and June | no | slow from Thanksgiving to mid January. May/June/July are busiest months |
| 39) % to Mediation | 85% of court referred | 50%-60% ⁴⁹ | 20% |
| 40) % to Conciliation | not applicable | not applicable | less than 20% |
| 41) % to Arbitration | not applicable | not applicable | none |
| 42) Initiated by Business | very few | self referred: very small %. Through the courts there are quite a few. ⁵⁰ | none |
| 43) Business to Business | very few | only 2 self-referred. Through the courts there are quite a few. | none (the center intends to develop this area in the near future) |
| 44) Person to Person | not available | Almost 100% | none |

⁴⁶ see question #67

⁴⁷ unable to count due to the arrangement with Focus and its switchboard

⁴⁸ including people who do not understand what mediation is (ex.: confused with meditation)

⁴⁹ about 200 inquiries did not develop into cases

⁵⁰ the center only had 4 self referred "other" type cases.

| Contacts | Charlottes | Fairfax | Fredricks |
|--------------------------------|---|---|--|
| 45) Business to Person | very few | very small | none |
| 46) Referrals from courts | 2-3 cases weekly from General District court. ⁵¹ | Court cases represent a large portion of the total cases. ⁵² | very dependent upon court referrals |
| 47) Site at/near courthouse | yes | Loudon County; Arlington County (see #46) | yes |
| 48) Who speaks to new contacts | either the Focus secretary or anyone in the office | specified intake person does most of the intake. ⁵³ | either the executive director; the volunteer; or the secretary |
| 49) Trained as mediators | not necessarily | yes | yes |
| 50) Assess case for mediation | the office staff | yes and mediators are supposed to continue to assess. | yes |
| 51) Attempt conciliation | no | no | no |

⁵¹ Circuit Court referrals seem to come when the judge has a significant backlog. Those cases seem to be indiscriminately sent to mediators for evaluation.

⁵² 1993 information: From Fairfax about 36% of cases. Prince William had 12%. Loudon had 11%. In all four counties; Information as of the end of 1993: Fairfax Circuit Court: (custody and visitation) 98 referrals from court; 48 self-referrals (custody and visitation); 3 other kinds of cases. Prince William County Juvenile and Domestic Relations Court: 88 cases; 12 self-referrals (custody and visitation). Arlington County small claims project: 2 site volunteer coordinators; 123 cases; Loudon County general district court and civil court (6 cases).

⁵³ The executive director and a group of four volunteers cover the other times that the part time intake person is not available.

| Contacts | Charlottes | Fairfax | Fredricks |
|------------------------------|------------------|---|--|
| 52) % conciliation attempted | not applicable | not applicable | not applicable |
| 53) Who contacts respondents | the center | the center then calls the respondent ⁵⁴ | in court referred cases the center contacts the respondent ⁵⁵ |
| 54) How respondent contacted | by intake person | the mediation coordinator or one of the volunteers; center calls the respondent | by phone; purpose of the contact is to set the time for the mediation |

CONTACTS

| Contacts | Harrison | Norfolk | Richmond |
|--------------------------------------|--|--|--|
| 36) Annual # inquiries ⁵⁶ | 602 | 2,696 (mostly telephone) | a minimum of 4000 |
| 37) What do you call an inquiry | anyone who calls in asking about mediation services | new phone contact | all calls to the center |
| 38) Cyclical Pattern | yes; inquiries are heavier in the beginning of the month | yes; around the holidays the case load increases | this information not collected by the center |

⁵⁴ ask the initiator to let the respondent know that they are going to be contacted by the center

⁵⁵ more than 90% of the work is court referred

⁵⁶ see question #67

| Contacts | Harrison | Norfolk | Richmond |
|--------------------------------|--|---|--|
| 39) % to Mediation | 50% | 225 intakes + court referral 181 both parties agreed to mediate closed 81 (didn't schedule) mediated 109 (may not have agreement on them (each session is counted as a case) | 6.5% |
| 40) % to Conciliation | 5% (self conciliated) | at least 25% | about 50% of all inquiries go to mediation or conciliation |
| 41) % to Arbitration | less than 1% | less than 1% (5 total for the year) | 44 cases in 1994; 5 in 1993 |
| 42) Initiated by Business | 15% | at least 35% | about 50% |
| 43) Business to Business | 3% (targeted for growth) | intakes 7 6 opened 2 mediated | not available |
| 44) Person to Person | 80% | nearly 50% (125 sessions) | not available |
| 45) Business to Person | 17% | there are some but don't know numbers | not available |
| 46) Referrals from courts | yes | yes | a large proportion |
| 47) Site at/near courthouse | space given in the courthouse to mediate | yes | yes |
| 48) Who speaks to new contacts | receptionist turns contacts over to trained intake manager as a rule | mostly intake worker | intake specialists. Everyone in the office does intake. |
| 49) Trained as mediators | yes | yes | yes |

| Contacts | Harrison | Norfolk | Richmond |
|-------------------------------|--|---|-------------------------------|
| 50) Assess case for mediation | yes; if not appropriate then refer to another source | yes | yes |
| 51) Attempt conciliation | advocate for resolution | yes | yes |
| 52) % conciliation attempted | don't know answer | about 1% | not available |
| 53) Who contacts respondents | clients' option to choose | either the intake worker or the initiator | depends upon the type of case |
| 54) How respondent contacted | either by center or by initiator | by phone | depends upon the type of case |

CONTACTS

| Contacts | Roanoke | Staunton | Warrenton |
|--------------------------------------|--|----------------------------------|--|
| 36) Annual # inquiries ⁵⁷ | [100 projected] 50 annually ⁵⁸ | 75 (this number is increasing) | not available |
| 37) What do you call an inquiry | a telephone call that does not come to mediation | anyone who calls for information | not available |
| 38) Cyclical Pattern | no, although divorce cases tend to come in in the spring | not available | focuses around children's needs ⁵⁹ . |
| 39) % to Mediation | 50% | not available | approximately 50-60% (including court referred work) |
| 40) % to Conciliation | 5% | not applicable | 0% |
| 41) % to Arbitration | 0% | not available | 0% |
| 42) Initiated by Business | very small | 2% | very small number of cases; some landlord tenant |
| 43) Business to Business | very small | none | only one |
| 44) Person to Person | 10% (neighborhood disputes) | 95% | caseload almost entirely family mediation |
| 45) Business to Person | very small | 2% | not available |

⁵⁷ see question #67

⁵⁸ +300 cases; average case is 2 1/2 hr. sessions

⁵⁹ increases are noted a month into the school year; at the end of the school year and after the winter holidays. Summer months are slow for mediations.

| Contacts | Roanoke | Staunton | Warrenton |
|--------------------------------|---|---|---|
| 46) Referrals from courts | 70%, most person to person cases are court referred | yes | yes |
| 47) Site at/near courthouse | not available | volunteer at the courthouse who does intake | informal arrangement with the clerk of the court |
| 48) Who speaks to new contacts | intake specialist ⁶⁰ | intake/secretary person | calls are returned by either the director or by the president ⁶¹ |
| 49) Trained as mediators | yes | has taken training | yes |
| 50) Assess case for mediation | yes, but tries not to mediate cases which she has done intake | yes | the person who does the intake also does the assessment ⁶² |
| 51) Attempt conciliation | yes | no | no |
| 52) % conciliation attempted | not available | not applicable | not applicable |
| 53) Who contacts respondents | the center | intake person ⁶³ | either the intern or the director |
| 54) How respondent contacted | by phone | by phone ⁶⁴ | in most instances the center makes the contact |

⁶⁰ with court referrals the center will be proactive and call the parties first

⁶¹ either voice mail or the intern receives the phone call

⁶² see #48

⁶³ intake is done in person at the center; each of the parties (separately) come into the center

⁶⁴ after the initiator has told the respondent that they are interested in having the case mediated

EMPLOYEES

| Employees | Charlottes | Fairfax | Fredricks |
|-------------------------------------|-----------------------------------|---|--|
| 128)How many paid employees | 2 part time staff (20 hours each) | 2 part time and 1 full time; see question #129 | 2 now; soon there will be three paid employees |
| 129)List major job categories | intake worker and director | executive director; mediation intake and assignment worker; administrative assistant; there are also 6 coordinators (2 in each of 3 counties) who also mediate. | Secretary (20 hrs/wk); Executive Director (15-20 hrs/wk) |
| 130)How many dedicated to mediation | 0 | none | none |

EMPLOYEES

| Employees | Harrison | Norfolk | Richmond |
|-------------------------------------|--|---|--|
| 128)How many paid employees | 6 full time employees; 1 half time training specialist; coming soon part time training coordinator. | 4 | center pays 1 full time employee and one employee at 30 hrs/week. Additionally, BBB, the parent organization, pays 2 full time employees to work for the center. |
| 129)List major job categories | <u>Full time workers:</u> exec. director ⁶⁵ ; director of mediation services; director of training; school mediation director; case manager; administrative assistant <u>Part time worker:</u> training specialist | executive director (24 hrs.); operations manager (24 hrs.);client services coordinator (37 1/2 hrs.); court liaison | paid by the BBB are responsible for intake and case review. 30 hr/week employee is court liason |
| 130)How many dedicated to mediation | training director-1/8th; | 0 | when there were court contracts there was another full time employee who's time was completely dedicated to mediation. |

⁶⁵ trained after accepting the job as a mediator

EMPLOYEES

| Employees | Roanoke | Staunton | Warrenton |
|-------------------------------------|---|--|---|
| 128)How many paid employees | 3 paid (one- 3/4 time; one- 1/2 time; one 16 hours weekly | 2 part time (20 hours each) | in the coming year there will be enough money for 2 part time employees due the to Virginia Law Foundation grant. |
| 129)List major job categories | executive director and two assistants | director (adm.; public relation; marketing; fundraising annd grant writing) and intake | not applicable |
| 130)How many dedicated to mediation | .5% | 0% | none |

EVALUATIONS

| Evaluations | Charlottes | Fairfax | Fredricks |
|---|---|---|--|
| 106)Evaluate effectiveness and satisfaction | yes | yes ⁶⁶ | use Supreme Court form; different form for attorneys and self-referred cases |
| 107)after every session | no | no; only at end of mediation | evaluated at the end of the mediation. |
| 108)Other types of evaluations that are performed | yes; peer/mentor evaluations for co-mediators | use one of two different forms (Supreme Court and agency) | yes; co-mediator and observer evaluations. |
| 109)When performed | at the end of the mediation | at the end of the mediation ⁶⁷ | the co-mediator & observer evals (of mediators) done at end of each session. |
| 110)Multiple post-mediation evaluations: | yes | no | no |
| 111)when | 3 months after the agreement is signed | not applicable | not applicable |
| 112)at what intervals | just once | not applicable | not applicable |
| 113)Any noticeable change w/time | not available | not applicable | not applicable |

⁶⁶ use the Supreme Court form for court referred cases; use their own form for self-referred cases.

⁶⁷ previously the evaluations were sent out after 6 months to a year had passed from the end of the mediation. The evaluations are presently completed and handed back to the mediators. When the evaluations were turned in later they tended to be more negative.

| Evaluations | Charlottes | Fairfax | Fredricks |
|--|--|---|---|
| 114)How performed in person; mail; phone | in person if possible; otherwise by returned by mail | in person | in person |
| 115)Is there follow up to evaluations | yes | evaluations are scrutinized | yes |
| 116)how | parties are contacted by phone | speaking to the mediator | when it seems the client has made a mistake or if very dissatisfied ⁶⁸ |
| 117)under what circumstances (routinely; in cases of dissatisfacton; randomly) | done on cases which come to agreement | under severe conditions indicating that a mediator has not been appropriate in his/her behavior | all circumstances |
| 118)Why are they performed | to find out if the agreements are holding. | to check quality | pinpoint areas of the mediator needing improvement ⁶⁹ |
| 119)Is the evaluation process productive | yes | yes; for the mediator | yes ⁷⁰ |
| 120)why | it is a quality check on the process | helps the center & the mediator do quality check | an individual file folder is kept on each mediator |

⁶⁸ if the client has probably misunderstood the evaluation form then the director will contact the party and ask permission to change the response. If the client is very dissatisfied with the mediation then the director will call the party to discuss the problem.

⁶⁹ looking for any possible weaknesses on the part of the mediator; for any mistakes the client may have made.

⁷⁰ however it would be more productive if the follow-up procedure (about the mediator's behavior) would have less lag time.

| Evaluations | Charlottes | Fairfax | Fredricks |
|---|--|---|--|
| 121)Recommendation of how the process should be | not available | not available | follow up evaluation several months later. |
| 122)Are the results scrutinized by another agency | yes; by the United Way | Supreme Court of the Commonwealth of Virginia | no |
| 123)Who is responsible for performing the mediation evaluations | the mediators ask the parties (only) | the mediators | all clients |
| 124)the follow ups | there is a volunteer who works from her home | the administrative staff | not applicable |
| 125)Who fills out evaluations | only those who come to agreement | everyone who goes through mediation | all mediations |
| 126)Supreme Court required evaluations | not yet implemented | yes | yes |
| 127)under what circumstances | will be for all court referred cases | all court referred cases | in all cases |

EVALUATIONS

| Evaluations | Harrisonburg | Norfolk | Richmond |
|---|---------------|---------------------------------|----------|
| 106)Evaluate effectiveness and satisfaction | yes | yes; use state's form | yes |
| 107)after every session | not available | no; at the end of the mediation | no |

| Evaluations | Harrisonburg | Norfolk | Richmond |
|---|-------------------------------------|-------------------------------------|---|
| 108)Other types of evaluations that are performed | co-mediator evaluations | debrief | oral and written evaluation are done by grad students |
| 109)When performed | done at the end of every mediation | immediately after mediation | at the end of the mediation |
| 110)Multiple post-mediation evaluations: | occasionally | none | no |
| 111)when | only in special cases ⁷¹ | n/applicable | not applicable |
| 112)at what intervals | | n/applicable | not applicable |
| 113)Any noticeable change w/time | not applicable | n/applicable | not applicable |
| 114)How performed in person; mail; phone | not applicable | n/applicable | not applicable |
| 115)Is there follow up to evaluations | yes | sometimes; see question #117 | yes |
| 116)how | by phone or in person | phone or (for a mediator) in person | the clients may be contacted after the mediation |

⁷¹ where the mediator or intake person feels follow up is important

| Evaluations | Harrisonburg | Norfolk | Richmond |
|---|--|---|--|
| 117)under what circumstances (routinely; in cases of dissatisfaction; randomly) | Director of Mediation Services scrutinizes all evaluations for trends and issues | if a problem was indicated on the evaluation or with a mediator | if the evaluation reflects a problem with the mediation then the director follows up with the clients and the mediators. |
| 118)Why are they performed | to determine level of satisfaction; rating mediators; rating process; | to improve satisfaction | to evaluate the mediators' performance and client satisfaction |
| 119)Is the evaluation process productive | yes | the idea is good | yes |
| 120)why | helps to improve mediators | the instrument is not good | helps to improve mediators |
| 121)Recommendation of how the process should be | not available | there should be a routine follow up evaluation | adding multiple evaluations over a period of time |
| 122)Are the results scrutinized by another agency | Supreme Court of the Commonwealth of Virginia | Commonwealth ; through the evaluations | no |
| 123)Who is responsible for performing the mediation evaluations | the mediators | the mediators ask the parties to fill out the forms | graduate students |
| 124)the follow ups | not available | not applicable | the director follows up when there is a problem |

| Evaluations | Harrisonburg | Norfolk | Richmond |
|--|---|---|--|
| 125)Who fills out evaluations | all parties | completed mediations (not necessary to come to an agreement to be complete) | the parties |
| 126)Supreme Court required evaluations | center not distributing these evaluations | yes | no longer performed because there are no more court contracts. |
| 127)under what circumstances | not applicable | on all cases | not applicable |

EVALUATIONS

| Evaluations | Roanoke | Staunton | Warrenton |
|---|---|---|---|
| 106)Evaluate effectiveness and satisfaction | yes | for effectiveness only | yes |
| 107)after every session | after completion of the mediation | no | yes |
| 108)Other types of evaluations that are performed | yes; mediators also evaluate each other | mediator debriefing immediately after the session | both the state form (for court ordered cases) and the center's form are used. ⁷² |
| 109)When performed | not applicable | immediately after the first session only | while the agreement is being typed |
| 110)Multiple post-mediation evaluations: | call made after the mediation to touch base with parties. | no | no |
| 111)when | about one week later | not applicable | not applicable |

⁷² For non-court cases the center form is used exclusively. Mediators also evaluate each other

| Evaluations | Roanoke | Staunton | Warrenton |
|---|---|----------------|---|
| 112)at what intervals | not applicable | not applicable | not applicable |
| 113)If multiple evaluations are performed is there a significant difference over time | there was one time a study was done and the longer the time periods that has gone | not applicable | not applicable |
| 114)How performed in person; mail; phone | mail | not applicable | in person |
| 115)Is there follow up to evaluations | only if they are signed and contain negative comments. | no | no |
| 116)how | a phone call is made to the party | not applicable | not applicable |
| 117)under what circumstances (routinely; in cases of dissatisfacton; randomly) | a mediator will be reviewed based upon a negative evaluation by a party. | not applicable | not applicable |
| 118)Why are they performed | to assess client and program satisfaction; isolate areas of needed improvement | not applicable | for quality control and for party to review the process for their own enlightenment |
| 119)Is the evaluation process productive | i.d. problems with mediators working with one another or as individuals | not applicable | yes it makes the parties examine the process to see how it has helped them |

| Evaluations | Roanoke | Staunton | Warrenton |
|---|--|---|---|
| 120)why | the Supreme Court instrument poor and co-mediator evaluations still not in place | not applicable | would like to do post-mediation evaluations |
| 121)Recommendation of how the process should be | the purpose of this evaluation would be to evaluate the mediators' work. ⁷³ | post-mediation follow up several months later ⁷⁴ | none |
| 122)Are the results scrutinized by another agency | Supreme Court | Supreme Court for court referred cases | the mediators of the case |
| 123)Who is responsible for performing the mediation evaluations | the staff of the center | the mediators | not applicable |
| 124)the follow ups | the staff of the center | not applicable | everyone does at the end of each session |
| 125)Who fills out evaluations | anyone who participates in the mediation | completed first session mediation parties | yes |
| 126)Supreme Court required evaluations | yes | yes | court ordered cases are evaluated by the Virginia Supreme Court |
| 127)under what circumstances | for all court referred and non-court cases | only on court cases | |

⁷³ Suggestions: 1) use excellent evaluation instrument 2)implement a standardized procedure for its distribution and processing 3) more highly structured process

⁷⁴ for durability and satisfaction

FUNDING

| Funding | Charlottes | Fairfax | Fredricks. |
|--|--|--|---|
| 20) Source(s) | Focus: funding from Focus comes from fundraisers; memberships and 33% from United Way. | County ⁷⁵ ; Supreme Court contract; private contrib.; training fees; Va. Law Foundation ⁷⁶ | Fredricksburg; Spotsylvania (County) ⁷⁷ ; Supreme Ct contract; mediation fees; training. |
| 21) Most Significant source(s) of funding | Focus and Virginia Law Foundation | mediation fees | 34% City & County ⁷⁸ . 27%. Supreme Court; 25% training; 11% mediation fees |
| 22) Charge for services | yes | yes | yes |
| 23) Who pays (% of income producing) | 100% | all parties | All parties expected to pay minimum \$5/hr ⁷⁹ . |
| 24) one/both clients pays | both | both | both parties |
| 25) Per session or by the hour | per session | hourly | by the hour |
| 26) Payments collected by whom ⁸⁰ | mediator collects at the beginning of the mediation | mediator | the mediator |
| 27) ⁸¹ below | yes | pay at the end of each session | yes ⁸² |

⁷⁵ 1994- \$10000, up several thousand dollars from 1993

⁷⁶ several small grants; fundraising event ; challenge grant

⁷⁷ (City of Stafford has historically provided funds).

⁷⁸ Anticipate City of Stafford will again fund the center for a total of 50% of funding.

⁷⁹ In theory there is no pro bono work

⁸⁰ (see question #78 below)

| Funding | Charlottes | Fairfax | Fredricks. |
|--------------------------------------|---|---|--|
| 28) Sliding scale | yes | yes | yes ⁸³ |
| 29) reduced fee criteria | income | individual's income | gross income |
| 30) require /requeste substantiation | not available | no | not available |
| 31) Telephone conciliation | no | not applicable | rarely, & only when necessary |
| 32) Forsee charging for conciliation | no | not applicable | ask for donation (non-specific \$ requested) |
| 33) Intake backcharges | no | no | no |
| 34) Cost/ per completed mediation | constantly decreasing ⁸⁴ | not available | \$300+ |
| 35) What is included in estimate | total budget/ number of mediations. ⁸⁵ | total budget divided by # of mediations | Total budget ⁸⁶ / # mediations |

FUNDING

| Funding | Harrison | Norfolk | Richmond |
|---------------|---|-----------------------|----------------------------|
| 20) Source(s) | memberships ⁸⁷ ; fees; training; | BBB, court contracts, | 27% from BBB ⁸⁹ |

⁸¹ see question #79

⁸² cash and checks only; the center will rarely bill a client (if at all it is usually for a commercial client)

⁸³ based upon .001 of your current gross income adjusted down when the amount falls between increments.

⁸⁴ The cost is ever decreasing because the annual budget remains relatively stable over the years but the number of mediations continues to rise.

⁸⁵ Because so much of the budget is in in-kind donations it is impossible to estimate the cost per mediation

⁸⁶ administration time; overhead; intake; letter writing; etc.

| Funding | Harrison | Norfolk | Richmond |
|--|--|---|---|
| | United Way ⁸⁸ | mediation income, training, corporate contributions | |
| 21) Most Significant source(s) of funding | training (50%) | training | training (300 people in 1994; 230 people) |
| 22) Charge for Services | yes | yes | yes |
| 23) Who pays (% of income producing) | 95% of clients pay (or Supreme Court contract pays for them) | all parties (except the court referred cases) | 20% |
| 24) one/both clients pays | clients both pay | both parties | both |
| 25) By session or hour | hourly | by the hour | by the hour |
| 26) Payments collected by whom ⁹⁰ | mediator | the mediator | staff person |
| 27) 91 below | yes | yes | yes |
| 28) Sliding scale | yes | yes | yes |
| 29) reduced fee criteria | reported income ⁹² | gross income | declared income |
| 30) require /request | not available | no | no |

⁸⁷ contributors

⁸⁸ \$10 thousand annually

⁸⁹ of the income: 50% from training; 25% from grants and contributions from corporations; services rendered; 25% from court contracts; fees for services

⁹⁰ see question #78

⁹¹ see question #79

⁹² no substantiation required or requested

| Funding | Harrison | Norfolk | Richmond |
|--------------------------------------|---|--|----------------|
| substantiation | | | |
| 31) Telephone conciliation | (perhaps) 2 annually | yes | yes |
| 32) Forsee charging for conciliation | already charging for conciliation and may also ask for reimbursement of long distance phone charges | may consider in the future | yes |
| 33) Intake back-charges | no | no | no |
| 34) Cost per completed mediation | \$42.50 per client/session hour (\$85 per mediation) | \$490 (\$75 per hour) | not available |
| 35) Included in estimate | everything | everything is included and then the amount is divided by the # of hours of mediation | not applicable |
| Notes: | | | 93 |

FUNDING

| Funding | Roanoke | Staunton | Warrenton |
|--------------------------------------|-------------------|---|---|
| 20) Who pays (% of income producing) | 95% ⁹⁴ | 100%; \$5 minimum per party/per session | every client or the court in their stead. |

⁹³ in 1992- 86% of the money coming into the center was from grants; in 1994 only 18% of the money was from grants. That trend will have to be reversed because of the reduction or elimination of contracts from the Supreme Court.

⁹⁴ 2 1/2% are predetermined to be pro bono; the other 2 1/2% are done gratis as the mediation unfolds and calls for gratis work.

| Funding | Roanoke | Staunton | Warrenton |
|--|---|---|------------------------------------|
| 21) one/both clients pays | usually both pay ⁹⁵ | both | all circumstances |
| 22) By session or hour | by the hour ⁹⁶ | session (approx. 2 hour sessions) | hourly |
| 23) Payments collected by whom ⁹⁷ | staff assesses payments & usually collects | mediators perform functions | center assesses; mediators collect |
| 24) ⁹⁸ below | no; center bills clients or takes credit cards | yes | yes |
| 25) Sliding scale | yes; | yes | Yes ⁹⁹ |
| 26) reduced fee criteria | income or circumstance | income | reported income |
| 27) require /request substantiation | no | no | none |
| 28) Telephone conciliation | no | not available | not applicable |
| 29) Forsee charging for conciliation | yes | no | no |
| 30) Intake backcharges | never considered the possibility ¹⁰⁰ | no; the center has been forced to only do intake in person ¹⁰¹ | no |

⁹⁵ in some cases only one party will pay for both party (by the party's offer). It is rare to have one party pay and the other party be pro bono.

⁹⁶ in 1/2 hr. increments (this includes crafting the agreement but not typing the agreement).

⁹⁷ see question #78

⁹⁸ see question #79

⁹⁹ every client pays something (except court referred cases). The minimum payment is \$5 hourly per party. The maximum payment per party is \$60 per hour. Unless the court is paying for a mediation

¹⁰⁰ if parties cancel with less than 24 hrs. notice they are billed for 1 hr. of mediation.

| Funding | Roanoke | Staunton | Warrenton |
|-----------------------------------|--|----------------|-------------------------------------|
| 31) Cost/ per completed mediation | not enough to cover the cost of court mediation. | not available | \$80-\$100 per completed mediation. |
| 32) What is included in estimate | not applicable | not applicable | see #34 ¹⁰² |

¹⁰¹ the problem was the amount of time it took to do the telephone intake and schedule the mediation: the parties would frequently not show up for the actual mediation

¹⁰² for the amount of revenue assessed to the parties for the total length of the mediation

MEDIATIONS

| Mediations | Charlottes | Fairfax | Fredericks |
|-----------------------------------|--|--|---|
| 55) Typical length | 2 hours usually | maximum of 2 hour sessions ¹⁰³ | about 2 hours (only 1 session) |
| 56) Multiple Session Cases | yes; about 1/2 of the cases | most cases require multiple two hours sessions | approx. 40% of cases |
| 57) Which type are multiple | rarely in civil matters; often w/ family mediation | all types | divorces w/large & diverse property settlements |
| 58) Solo or co-mediations | co-mediation | co-mediation | both (co-mediation in 96% of cases) |
| 59) Policy of Co-mediation | yes ¹⁰⁴ | yes | yes ¹⁰⁵ |
| 60) Solo ever ok | when unavoidable | when unavoidable | when unavoidable |
| 61) Caucus in mediation | no | when indicated | rarely |
| 62) Reason for caucus mediation | not applicable | excessive anger or hostility | transfer of sensitive info. |
| 63) # of mediations done annually | 70 approximately | 382 in 1993 | 119 in 1994 (approximately 2 weekly) |
| 64) Growth rate | not available | about 50% annually | about 100% ¹⁰⁶ |

¹⁰³ a domestic (family) case is handled in 3-4 sessions on the average

¹⁰⁴ additionally, in the case of family mediation the center prefers to use a male/female team

¹⁰⁵ always try to use a male and a female on a team; always have one of the co-mediators be certified (even when there are only female parties)

¹⁰⁶ with the Supreme Court contract the case load will probably double in 1996 (approximately 200 in 1995). Until this contract the case load was increasing at rate of about 5-10% annually.

| Mediations | Charlottes | Fairfax | Fredericks |
|--|--|--|-----------------------------------|
| 65) Growth area | not available | court projects | court referred; especially family |
| 66) Portion settled through mediation | 90% ¹⁰⁷ | 33% each reach agreement; partial agreement/withdraw/no agreement ¹⁰⁸ | 75% |
| 67) Portion of inquiries which go to mediation | about 85% go to mediation (of court referrals) | of the court referred cases: 1/3 | about 25% |
| 68)...due to initiator's unwillingness | not available | of the non-court referred cases: very low percent | 5% |
| 69)...due to respondent's unwillingness | 10% | of the non-court referred cases: about 50% | not available |
| 70) % inappropriate for mediation | not available | approximately 12% | very small number |
| 71) Divorce mediation | yes | yes | yes, 90% |
| Mediate cases involving: | | | |
| 72) drug abuse | generally no ¹⁰⁹ | not necessarily (see #76) | no |
| 73) alcohol abuse | generally no ¹¹⁰ | not necessarily (see #76) | no ¹¹¹ |

¹⁰⁷ agreement rate on all mediations at the center approximately 90%

¹⁰⁸ called withdrawal when the case actually does not actually mediate. 50% of those who actually get past the evaluation stage reach agreement or partial agreement. Self-referred have a higher agreement rate. In the more sophisticated counties there is a slightly lower rate of agreement perhaps because they may have already made an investment in attorneys' fees and are more invested in the win/lose scenario.

¹⁰⁹ however if the problem is in the distant past and no longer is an issue the center will handle the case

¹¹⁰ refer to footnote #6

| Mediations | Charlottes | Fairfax | Fredericks |
|--|-----------------------------|--|--|
| 74) physical abuse | generally no ¹¹² | not necessarily (see #76) | no ¹¹³ |
| 75) sexual abuse | generally no ¹¹⁴ | not necessarily (see #76) | no |
| 76) Other unacceptable categories | no | 1) inability of a party to negotiate 2) sense by one party that a great injustice occurred | no |
| 77) Formal agreements typed or handwritten | handwritten | depends ¹¹⁵ | typed & sent to the clerk of the court; request entry in court order |
| 78) Who collects payments and assesses charges | mediator | the center assesses fees; the mediators collect ¹¹⁶ | the mediator |
| 79) C.O.D. | yes | yes | yes; cash & checks ¹¹⁷ |

¹¹¹ will consider making exceptions if the circumstances or the judge call for it

¹¹² refer to footnote #6

¹¹³ refer to footnote #8

¹¹⁴ refer to footnote #6

¹¹⁵ if it is a one session mediation then it is almost always handtyped. If the mediation is going on multiple sessions then the agreement will be typed and may be sent to the parties by mail in advance of the session.

¹¹⁶ payments assessed before the sessions begin and the parties are aware of the charges in advance.

¹¹⁷ will bill commercial clients on rare occasions

| Mediations | Charlottes | Fairfax | Fredericks |
|---|------------------------------------|---|---|
| 80) Mediators given any materials with which to take into mediation | the intake sheet | yes; mediators are given lots of materials | record; intake sheet; court materials; allegations; forms; brief sheet with intake info |
| 81) Use of certified mediators in mediations | only mandatory for the court cases | for court cases; other info. not available | 20% of the active mediators are certified |
| 82) Base of information ¹¹⁸ | not available | preferred ¹¹⁹ | not available |
| 83) Employ specialists for different mediations | for expertise and experience | attempts to match strengths and experiences of a mediator to a case | yes |

MEDIATIONS

| Mediations | Harrisonburg | Norfolk | Richmond |
|-----------------------------|--|----------------------|---|
| 55) Typical length | 2 hour sessions | 2 1/2 hr | 2-3 hours |
| 56) Multiple Session Cases | 40% multiple sessions | yes | yes |
| 57) Which type are multiple | most are family or complex business organization cases | usually family cases | family cases; these sessions are limited to 2-3 hours |
| 58) Solo or co-mediations | Co-mediation 99.9% of the time | co-mediations | both |

¹¹⁸ working knowledge of subject) required; preferred; desirable

¹¹⁹ so that the mediator knows what questions to ask; the more background information the mediator has the better

| Mediations | Harrisonburg | Norfolk | Richmond |
|--|--|---|---|
| 59) Policy of Co-mediation ¹²⁰ | usually only solo when there is a followup session | yes; prefer to use one certified mediator | mediators assigned by skill level; honor party's requests |
| 60) Solo ever ok | when unavoidable | if unavoidable | yes |
| 61) Caucus in mediation | some ¹²¹ | when called for | very rarely |
| 62) Reason for caucus mediation | to balance power | party might share important info. w/o other party | not applicable |
| 63) # of mediations done annually | 415 mediations (not sessions) | 286 sessions (about 250 cases) | 1643 in 1994 |
| 64) Growth rate | 20% | 100% annually | not available |
| 65) Growth area | business and organizational ¹²² | private pay cases, esp. commercial | not available |
| 66) Portion settled through mediation | 90% + | 85-90% | 85-90% |
| 67) Portion of inquiries which go to mediation | 50% | about 50% | not available |
| 68) ...due to initiator's unwillingness | 15% | A few but most go to mediation | a low proportion |

¹²⁰ the center always tries to co-mediate with one male and one female mediator in every session and always use a male-female team whenever there are both sexes involved as parties

¹²¹ usually when involving families with domestic difficult business cases violence or difficult business cases

¹²² past growth: family (not because of court referrals); more present growth: (ex: credit unions; churches; contract mediation; partnering before initiating work on a contract

| Mediations | Harrisonburg | Norfolk | Richmond |
|--|--|---------------------------------------|-------------------------|
| 69)...due to respondent's unwillingness | 33% | usually a problem w/respondent | 20% |
| 70) % inappropriate for mediation | 1% ¹²³ | it is a sifting process | "fair amount" |
| 71) Divorce mediation | yes | yes | yes |
| Mediate cases involving: | | | |
| 72) drug abuse | yes | typically not | no ¹²⁴ |
| 73) alcohol abuse | yes | typically not | no ¹²⁵ |
| 74) physical abuse | yes; limited violence o.k. | against kids-no; no domestic violence | no ¹²⁶ |
| 75) sexual abuse | yes | not if children are victims | no ¹²⁷ |
| 76) Other unacceptable categories | serious mental health problems | discrimination; they are value laden | no |
| 77) Formal agreements typed/written | either one ¹²⁸ | typed whenever possible | typed whenever possible |
| 78) Who collects payments and assesses charges | intake worker assesses; mediator receives the payments | coordinator | staff person |

¹²³ this center has many very experienced mediators who can handle even the most difficult types of cases

¹²⁴ (current or past) because they are impaired

¹²⁵ refer to footnote #4

¹²⁶ refer to footnote #4

¹²⁷ refer to footnote #4

¹²⁸ very difficult agreements are usually not written on the spot. Rather they are written by the mediators and then sent to the parties for their signatures.

| Mediations | Harrisonburg | Norfolk | Richmond |
|---|--|---|--|
| 79) C.O.D. | yes ¹²⁹ | yes | yes |
| 80) Mediators given any materials with which to take into mediation | given intake file with amounts to be charged; referring attorney; referral source background & story | intake materials; background information; court materials | no |
| 81) Use of certified mediators in mediations | always have one certified mediator in every session | always for court cases & mentoring; otherwise if possible | Every mediation is conducted with at least one certified mediator. |
| 82) Base information required or preferred or desirable | no | no | no |
| 83) Employ different specialists for different types of mediation | will honor requests but will not initiate any matching except for balancing gender (and race if necessary) | no | Every mediation is conducted with at least one certified mediator. |

MEDIATIONS

| Mediations | Roanoke | Staunton | Warrenton |
|----------------------------|--|----------|--------------|
| 55) Typical length | planned at max. 2 hours ¹³⁰ | 2 hours | 2 1/2-3 hrs. |
| 56) Multiple Session Cases | yes ¹³¹ | 30-35% | sometimes |

¹²⁹ bill clients very infrequently; do not take credit cards

¹³⁰ frequently are significantly longer than that if all parties are able and willing to proceed. The mediations generally last 2 1/2 sessions for all types of cases

| Mediations | Roanoke | Staunton | Warrenton |
|---------------------------------------|---|---|---|
| 57) Which type are multiple | all types | not available | not available |
| 58) Solo or co-mediators | co-mediation | co-mediators | try to have two mediators |
| 59) Policy of Co-mediation | yes ¹³² | try to do male/female team; co-mediation only | yes; attempt to have a male and a female. |
| 60) Solo ever ok | when unavoidable ¹³³ | no | when necessary |
| 61) Caucus in mediation | yes | yes | not available |
| 62) Reason for caucus mediation | when apprehension or fear exists by a party that needs to be shared | to get full disclosure of information | not available |
| 63) # of mediations done annually | 99 (for '93-'94) | 45 | 1993- 23 cases; 1994- 35 |
| 64) Growth rate | '92-'93 growth rate about 25% | substantial | 50% approx. |
| 65) Growth area | court referred family cases | court referred cases | not available |
| 66) Portion settled through mediation | 75% | 75% | 80-85% ¹³⁴ |

¹³¹ a codicil is that most cases are family cases

¹³² the policy is in place because the center feels the a) the parties get a better product and b) it is safer for all involved if there are two mediators

¹³³ in an emergency on subsequent sessions (not on the first session). In this case the mediators have the obligation to keep the other mediator informed as to the case development.

¹³⁴ the exception of parent/adolescent cases are settled; parent/adolescent 40-50% (20% of the center's cases are of this type)

| Mediations | Roanoke | Staunton | Warrenton |
|--|---|---------------|---------------------------------------|
| 67) Portion of inquiries which go to mediation | not available | not available | not available |
| 68)...due to initiator's unwillingness | none | 5-10% | not available |
| 69)...due to respondent's unwillingness | 5% | 15-20% | not available |
| 70) % inappropriate for mediation | not available | very small | not available |
| 71) Divorce mediation | yes | yes | yes |
| Mediate cases involving: | | | |
| 72) drug abuse | not if this is a current concern | yes | yes |
| 73) alcohol abuse | not if this is a current concern | yes | yes |
| 74) physical abuse | generally no; not if this is a current concern ¹³⁵ | no | if there is a protective order- no |
| 75) sexual abuse | generally no; not if this is a current concern | no | no |

¹³⁵ A standards of ethics is in place at the center so that the onus of reporting suspected abuse or potential for abuse is upon the mediator. A disclaimer for release of this information is in the standard release form that all parties sign before mediating. Shuttle mediation is performed in abuse or extreme anger cases where the court insists that the center hears the case the center does shuttle mediation (only one party or the other is at the mediation on a particular day). the shuttle mediation is done for the protection of the individuals and the mediators. These cases are always heard at the courthouse with bailiffs within earshot. The additional concern in these cases is that there will be retribution at some time in the future.

| Mediations | Roanoke | Staunton | Warrenton |
|---|---|-----------------------------------|--|
| 76) Other categories unacceptable | no | suicidal clients | no |
| 77) Formal agreements typed or handwritten | generally typed from the mediators hand-written agreement. | typed | typed |
| 78) Who collects payments and assesses charges | staff assesses payments and (usually) receives payments. | mediators perform these functions | center assesses and mediator collects |
| 79) C.O.D. | the center bills clients (center takes charge cards) | yes | yes ¹³⁶ |
| 80) Mediators given any materials with which to take into mediation | yes; a check list and any relevant information | no | there is a "cheat sheet" available to be used. |
| 81) Use of certified mediators in mediations | only in court referred cases | not available | always uses at least one certified mediator |
| 82) Base of information ¹³⁷ | not available | not available | not available |
| 83) Employ specialists for different mediations | attorneys- business cases; therapists- abuse cases; gender specific assignments; etc. | no | not available |

¹³⁶ they are informed at the initial contact that they will be asked to pay at the session

¹³⁷ working knowledge of subject: required, preferred, or desirable

| Mediations | Roanoke | Staunton | Warrenton |
|------------|---------|-------------------------------------|-----------|
| Notes: | | 75% of cases are family cases | |

MEDIATORS

| Mediators | Charlottes | Fairfax | Fredricks |
|---|---|--|--|
| 84) How many volunteer mediators | not available | there are 120 mediators ¹³⁸ | 32 are active; 82 total mediators |
| 85) Any paid mediators | yes; mentor mediators are paid a small honorarium | mediators are given a stipend of half of the collected fees ¹³⁹ . | yes; the court liasons are paid @ \$10/hr. |
| 86) Pay trainers | yes | \$60 per hour or 1/3 of the gross per trainer (may be two trainers). | yes; 35% of net of class |
| 87) # Of each type family; general | not available | 120 mediators on active list | not available |
| 88) Use attorneys | yes; as mediators | yes | yes |
| 89) paid to mediate | no | same guidelines as other mediators | same guidelines as other mediators |
| 90) same rate as other mediators | not applicable | yes | yes |
| 91) Portion of mediators with certification | most | aim of the agency is to have all of the mediators certified | not available |
| 92) Type of training of mediators | general and family | 40 hr. basic training | general and/or family |

¹³⁸ there are three levels of mediators: apprentices/ practitioners/ mentors.

¹³⁹ Everyone who mediates is not paid. Apprentices are not paid. Practitioners are only paid after they have done one year of service gratis. If both mediators are eligible to be paid they will split 50% of the paid stipend.

| Mediators | Charlottes | Fairfax | Fredricks |
|--|--|---|---|
| 93) Extra training given to the volunteer mediators | no | 2 hr. optional in-service available every month | none |
| 94) Offer intra-organizational training ¹⁴⁰ | yes | see #93. | some training is provided on a very irregular basis. |
| 95) Offer extra-organizational training | yes | let mediators know of opportunities | no |
| 96) Criteria for assignment to a case | yes; for expertise; gender and level of experience | strengths and experience | based on the memory and intuition of the exec. to get a good match. |
| 97) Mentorship program available | yes; on a limited basis | yes | don't call it mentorship but it is in effect |
| 98) How long does it generally take to be mentored | a few months | not available | not available |

MEDIATORS

| Mediators | Harrisonburg | Norfolk | Richmond |
|----------------------------------|---|------------------------------------|---------------|
| 84) How many volunteer mediators | 52 volunteer mediators plus aggressive use of student interns | number varies; some are not active | not available |
| 85) Any paid mediators | yes; "master" mediators are paid \$20 per hour ¹⁴¹ | yes; one | no |

¹⁴⁰ continuing education

¹⁴¹ (merely an honorarium) given to experienced mediators; there are 6 at present

| Mediators | Harrisonburg | Norfolk | Richmond |
|--|---|--|--|
| 86) Pay trainers | trainers are paid \$30 per/hr | executive director and other employees do the training | yes |
| 87) # Of each type family; general | not available | not available | not available |
| 88) Use attorneys | yes | yes | yes |
| 89) paid to mediate | only if they happen to be "master" mediators (no deference given to them because they are attorneys | no | no |
| 90) same rate as other mediators | yes | no applicable | not applicable |
| 91) Portion of mediators with certification | 85% | most already are certified or are working toward certification | not available |
| 92) Type of training of mediators | general mediation training and/or family training | general for most; a few for family | as directed by the Supreme Court for certification |
| 93) Extra training given to the volunteer mediators | no; just the minimum of general mediation training | none yet | no |
| 94) Offer intra-organizational training ¹⁴² | yes; monthly mediator meeting; | none yet | no |
| 95) Offer extra-organizational training | encouraged to attend scholarships available | send newsletter about opportunities | no |

¹⁴² continuing education

| Mediators | Harrisonburg | Norfolk | Richmond |
|--|--|--|--|
| 96) Criteria for assignment to a case | try to pair a more experienced and a less experienced mediator | availability and mentorship are generally what it sought | no |
| 97) Mentorship program available | yes | yes | yes |
| 98) How long does it generally take to be mentored | one to two months | depends upon the availability of the candidate | relative to the potential of the mentoree. |

MEDIATORS

| Mediators | Roanoke | Staunton | Warrenton |
|---|----------------|---|------------------------|
| 84) How many volunteer mediators | 24 currently | not available | 12-14 active mediators |
| 85) Any paid mediators | no | not available | no |
| 86) Pay trainers | not available | most all are family mediators | yes |
| 87) # Of each type: family & general | not available | no | not available |
| 88) Use attorneys | yes | not applicable | not available |
| 89) paid to mediate | no | not applicable | not applicable |
| 90) same rate as other mediators | not applicable | most | not applicable |
| 91) Portion of mediators with certification | not available | to do family med. must have family training | 100% |

| Mediators | Roanoke | Staunton | Warrenton |
|--|--|--|-------------------------------------|
| 92) Type of training of mediators | basic training (most have family training as well) | none | general training from other centers |
| 93) Extra training given to the volunteer mediators | yes; mandatory ¹⁴³ | no | not available |
| 94) Offer intra-organizational training ¹⁴⁴ | yes | the center does not offer training of any kind in-house. | not available |
| 95) Offer extra-organizational training | no | not available | not available |
| 96) Criteria for assignment to a case | special requirements (expertise) & gender | no | not available |
| 97) Mentorship program available | yes | no | yes |
| 98) How long does it generally take to be mentored | takes about 1 year | not applicable | not available |

¹⁴³ training is provided to all mediators in ethics and child abuse awareness and continuing education requirement of 8 hours annually. There is no charge for active mediators of the center to take these courses.

¹⁴⁴ continuing education

MISSION STATEMENT**WARRENTON**

Primary Goals: to educate the public to the benefits of mediation on a very personal level; bring mediation down to a family and home level situation.

note: the Warrenton center had recently branched off from the Fredricksburg center. Therefore, although their new information was not ready it is worthwhile providing the Fredricksburg mission statement:

The Rappahannock Mediation Center is dedicated to providing mediation services, conflict management and resolution training to empower individuals to amicably resolve their conflict using, when required, qualified third party mediators. The Center serves the Rappahannock River basin its tributaries.

BUDGET

\$20,923

MISSION STATEMENT**STAUNTON**

To provide mediation services and training to all members of the community and to promote peaceable conflict resolution

BUDGET

\$26,000

MISSION STATEMENT

RAONOKE

The mission of the Conflict Resolution Center is to provide the Roanoke Valley and surrounding areas with more cooperative and less formal methods of dispute resolution than traditional court processes, and to educate the public about these alternative methods. Such methods, which include mediation and arbitration, help people to maintain mutual respect, to address their real concern in a constructive manner, to retain appropriate control of the dispute resolution process, and to expend a minimum amount of time, energy, and money. The services are intended to be affordable to all people who seek them. In sum, the goal of the Center is to increase public awareness of and access to alternative methods of conflict resolution.

BUDGET

\$32,600

MISSION STATEMENT

RICHMOND

To provide mediation and arbitration services to resolve a variety of disputes including those between businesses; neighbors; consumers/businesses; landlord/tenant; and to families in conflict. The center also provides training to individuals in mediation and arbitration skills.

BUDGET

| |
|-----------|
| \$121,000 |
|-----------|

MISSION STATEMENTNORFOLK

| |
|---|
| <p>Our mission is to provide Hampton Roads citizens access to dispute resolution processes and education that is cost effective, timely and professional. We embrace the notion that when citizens can manage conflict productively, ultimately our cultural paradigm about violence can also change.</p> |
|---|

BUDGET

| |
|-----------|
| \$120,965 |
|-----------|

MISSION STATEMENTHARRISONBURG

| |
|--|
| <p>The CMC provides regional leadership in dispute resolution by enabling individuals, families, business, organizations and communities to work cooperatively to present onflict and to transform conflict into an opportunity for change and growth.</p> |
|--|

Philosophy

| |
|---|
| <p>The philosophy of CMC is that while conflict acts as a healthy and creative force for change, failing to deal with it in a constructive manner damages</p> |
|---|

individual, organizations, and relationships. Often persons avoid open confrontation because they are uncomfortable with conflict or do not have sufficient skills to effectively deal with the situation. Conflict resolution provides these abilities, enabling people to face and creatively channel conflict rather than allowing hostilities to build and situations to get out of hand.

BUDGET

\$282,200

MISSION STATEMENT

FREDRICKSBURG

The Rappahannock Mediation Center is dedicated to providing mediation services, conflict management and resolution training to empower individuals to amicably resolve their conflict using, when required, qualified third party mediators. The Center serves the Rappahannock River basin its tributaries.

BUDGET

\$37,745

MISSION STATEMENT

FAIRFAX

“Provide mediation and conflict resolution services as well as training to the citizens in the four counties served to these people and organizations.”

BUDGET

| |
|-----------|
| \$171,040 |
|-----------|

MISSION STATEMENT

CHARLOTTESVILLE

Mediation is a confidential process of resolving conflicts that upholds the dignity of and respect for each individual and develops understanding and mutually acceptable agreements.

The Mediation Center is a non-profit dispute resolution program which makes available to individual and community groups professional mediation and conflict resolution services and training. All services and training are provided by trained mediators whose practices strictly adhere to the professional standards set by the Supreme Court of Virginia.

The Center advocates for and promotes awareness of the philosophical and practical value to the community of using alternative dispute resolution methods.

The Center offers professional training to acquire the necessary skills for certification by the Supreme Court of Virginia in the practice of mediation.

BUDGET

| |
|----------|
| \$48,140 |
|----------|

ORGANIZATION

| Organization | Charlottes | Fairfax | Fredricks |
|-----------------------|--|---|--|
| 1) Name | The Mediation Center at Focus | Northern Virginia Mediation Service | Rappahanock Mediation Center Inc. |
| 2) City | Charlottesville | Fairfax ¹⁴⁵ | Fredricksburg |
| 3) Incorporated | no | yes; separate from the university | yes |
| 4) Environ. | university area | university | rural/historical/suburban |
| 5) Geographic setting | urban | suburban/urban | rural; farming/cattle farms ¹⁴⁶ |
| 6) Tax class | Focus is 501(c)(3) | 501 (c)(3) | 501 (c)(3) |
| 7) Founded | 1984; with a city block grant ¹⁴⁷ | approx 1989 as a mediation service ¹⁴⁸ | January 1989 |
| 8) Plant Independent | no | no | no |
| 9) Square Footage | 400 sq ft + office + mediation room. | not available | 702 sq. ft. |
| 10) Computerized | yes ¹⁴⁹ | accounting and data base ¹⁵⁰ | word processing; mediator time; contributors; etc. |

¹⁴⁵ serving four counties: Fairfax; Prince William; Loudon; and Arlington

¹⁴⁶ bedroom community to D.C.; surrounded by 6 other rural counties

¹⁴⁷ Focus was incorporated in 1991

¹⁴⁸ refer to question #13

¹⁴⁹ data base for cases and mailing list

¹⁵⁰ for mailing labels and categories: mediators; contributors; no client statistics done on computer

| | | | |
|--|---|---|--|
| 11) Parent Organization | yes | ICAR ¹⁵¹ | none |
| 12) Shared Facility | yes | yes with ICAR | no ¹⁵² |
| 13) Name of parent | Focus | Institute for Conflict Analysis and Resoulution (ICAR) at George Mason University | not applicable |
| 14) Purpose of parent | provides housing, telephone, utilities and common ideals (identity) | 1) provide a way to serve the community 2) ICAR's interns will have placements. | not applicable |
| 15) Funding from parent | Only expenses are personnel costs and office supplies. | free office space from the Univ.; no other \$ assistance | not applicable |
| 16) % of funding from parent | 100% | not available | not applicable |
| 17) Branch or Remote Sites | yes | yes | yes |
| 18) How many branches or remotes | 1 | no actual operation ¹⁵³ | 3 |
| 19) Type of location of branch or remote | 2-3 volunteer mediators at the court one day a week | 154 | Mediations are done on site ¹⁵⁵ |

¹⁵¹ also has spun off 3 other programs and provides free office space to them as well. No one from ICAR sits on the board although their board participation is welcome. (see question #13)

¹⁵² the center has access to other offices in their building and may use them liberally

¹⁵³ numerous types and locations but there is of any branches except for a phone into a volunteer's home

¹⁵⁴ Arlington and Loudon County: use court house; shared offices; churches; other Univ. campuses; attorney's office; libraries; public

ORGANIZATION

| Organization | Harrison | Norfolk | Richmond |
|--|----------------------------|-------------------------------------|--|
| 1) Name | Community Mediation Center | Dispute Settlement Center | Dispute Resolution Center |
| 2) City | Harrisonburg | Norfolk | Richmond |
| 3) Incorporated | yes | yes | yes |
| 4) Environment (urban; rural; etc.) | College town | urban | urban |
| 5) Geographic Setting surrounded by ...) | rural | business and residential mix | inner city |
| 6) Tax classified | 501 (c)(3) | 501(c)(3) | 501(c)(3) |
| 7) Founded | 1982 | planned in '89; doors opened in '90 | October 1 1987. Joint venture of the BBB; Virginia State Bar; the Virginia Bar Association |
| 8) Independent Plant | rented | no | no; the center is donated space by and in BBB |
| 9) Square Footage | 2500 | 3500 | 1200 in a high rise building |

buildings. Some of these spaces are donated; some are paid for per use; some of paid for with monthly rental fees. There are also phones tied into the organization in each of the counties so that clients local to the county don't have to call long distance and incur a charge.

¹⁵⁵ courthouse representatives in general district and juvenile/domestic relations court in several county courts.

| Organization | Harrison | Norfolk | Richmond |
|------------------------------|--|---|--|
| 10) Computerized | semi; 6 computers mostly for word processing; no case management | only for word processing | yes; for statistics and data; also for agreement writing (macros and boilerplate) |
| 11) Shared Facility | the building houses other businesses but the office space only houses the Center | yes; share facility with the parent organization | yes |
| 12) Parent Organization | n/applicable at present ¹⁵⁶ | Better Business Bureau | Better Business Bureau Foundation of Virginia (supporting the Dispute Resolution Center) |
| 13) Name of parent | not applicable | originally DSC was conceived as a small component of the parent | Better Business Bureau |
| 14) Purpose of parent | not applicable | bookkeeping is given in exchange for PC use, etc. | provide support services/information to the community to businesses and charities. |
| 15) Funding from parent | not applicable | 0%, however, BBB gives a monthly stipend of \$500 to DSC | funding in kind (computers; support staff; office space) |
| 16) % of funding from parent | not applicable | yes | approximately 27% |

¹⁵⁶ James Madison University is exploring a partnership with the Center

| Organization | Harrison | Norfolk | Richmond |
|--|--|--|---|
| 17) Branch or Remote Sites | court sit; training at a church at no cost or rent | one | established presence at some of the court houses |
| 18) How many branches or remotes | none | on location site in Norfolk Civil District Court | 3 |
| 19) Type of location of branch or remote | court (general district and juvenile/domestic relations) | wait at court for cases 2 days a week | Henricho country (2 days weekly); Richmond (5 days weekly) & Petersburg (once weekly) |

ORGANIZATION

| Organization | Roanoke | Staunton | Warrenton |
|-------------------|---------------------------------|-------------------------------------|--|
| 1) Name | Conflict Resolution Center Inc. | Augusta Center for Mediation | Piedmont Dispute Resolution Center |
| 2) City | Roanoke Virginia. | Staunton (main) & Waynesboro | Warrenton |
| 3) Inc. | yes | yes | yes |
| 4) Environment | urban | university town; rural surroundings | rural |
| 5) Surrounded by | in the city of Roanoke | small town | small town; north-western VA; ¹⁵⁷ |
| 6) Tax classified | 501 (c)(3) | 501(c)(3) | 501 (c)(3) |

¹⁵⁷ serves surrounding counties too

| Organization | Roanoke | Staunton | Warrenton |
|------------------------|---|---|---|
| 7)Founded | core group of interested professionals 1988. ¹⁵⁸ | 1990 | 1991 as a satellite office of Fredricks; in 1992 est. independence ¹⁵⁹ ; 1993 inc. |
| 8) Independent Plant | no; the lease is for \$1 annually plus utilities ¹⁶⁰ | no | no |
| 9)Square Footage | approximately 600 sq. ft. | total of 2 offices is approximately 700 square feet | 443 sq. ft. |
| 10) Computerized | personal computers at homes with two staff members ¹⁶¹ | some things are computerized | used for client files; mailing list; design of brochure. |
| 11)Shared Facility | plant-yes; facility-no | yes; cooperative office suite | no |
| 12)Parent Organization | no | none | no |
| 13)Name of parent | not applicable | not applicable | not applicable |

¹⁵⁸ (attorneys; judges; therapists; social workers) in response to a mission to study the courts' future formed the organization in 1988. Open for business about 20 months later in October 1991.

¹⁵⁹ Still maintain a relationship with Rappahannock; share mailing lists; share mediators; exchange information; training done cooperatively (including sharing assets); etc. The two centers are 45 minutes apart. "It is a cooperative relationship."

¹⁶⁰ the other organization is a complementary use and the agency leases space from the owner/landlord.

¹⁶¹ (the executive director and the intake specialist) for the generation of documents. Contributors are not stored on the computer. There is hardware recently acquired which will increase the kinds of data managed on computer. The organization looks forward to buying a software package which will do comprehensive agency data management. Case management; filtering of statistics; volunteer management; automatic correspondence generation

| Organization | Roanoke | Staunton | Warrenton |
|---|--|---|----------------|
| 14)Purpose of parent | not applicable | not applicable | not applicable |
| 15)Funding from parent | not applicable | not applicable | not applicable |
| 16)% of funding from parent | not applicable | not applicable | not applicable |
| 17)Branch or Remote Sites | do mediations at the courthouse ¹⁶² | yes | none |
| 18)How many branches or remotes | none | 2 | not applicable |
| 19)Type of location of branch or remote | not applicable | Waynesboro is a branch office; the courthouse is a remote site. | not applicable |

¹⁶² (cases involving violence or physical abuse) although these mediations are scheduled there and there is never anyone sitting in the courthouse waiting for cases.

RELEASES

| Release | Charlotte | Fairfax | Fredricks |
|---------------------------------|-----------------------------------|---|---|
| 99) Release forms provided | yes | yes; there is a separate agreement to mediate | yes |
| 100) When signed | at the beginning of the mediation | at the very beginning of the session before there has been a decision to mediate; now they are done on the spot | at the very beginning of the mediation just after the introduction |
| 101) Mediators signs release | yes | not available | yes |
| 102) Read out loud by mediator | sometimes | it is the decision of the individual mediator as to whether they read it or just talked through | no |
| 103) Explained by mediators | sometimes | yes | the mediators ask the clients if they have any questions about the release and then will answer the questions. The mediators usually will highlight the important points of the release form. |
| 104) item by item | sometimes | yes | no |
| 105) Copies provided to parties | if requested | yes | no |

RELEASES

| Release | Harrison | Norfolk | Richmond |
|---------------------------------|---|--|---------------------------------------|
| 99) Release forms provided | yes; it is called an agreement to mediate | yes | yes |
| 100) When signed | the agreement to mediate is signed before they ever get into the mediation. The mediator meets them; introduces himself/herself and gives them the form to read and sign. | before starting the mediation | at the beginning of the first session |
| 101) Mediators signs release | no | yes | yes |
| 102) Read out loud by mediator | only if there is an indication that they cannot read it themselves | depends upon the mediator; prefer for them to paraphrase | yes |
| 103) Explained by mediators | No. It will be explained to them by the person with whom they meet if they ask questions | yes | the mediators paraphrase |
| 104) item by item | not applicable | yes; in a relaxed manner | yes |
| 105) Copies provided to parties | if requested | if they request a copy | yes |

RELEASES

| Release | Roanoke | Staunton | Warrenton |
|---------------------------------|---|--|---|
| 99) Release forms provided | yes (and an agreement to mediate) | yes | yes; called a consent form |
| 100) When signed | once, at the beginning of the mediation | at intake (which is done at a different time than the mediation) | at beginning |
| 101) Mediators signs release | yes | no | yes |
| 102) Read out loud by mediator | yes | no | to be sure that the parties are literate enough to understand the written form the policy is to read the form verbatim. |
| 103) Explained by mediators | yes | it is explained by the intake worker | questions are sought; if the parties have any questions they are answered at this time. |
| 104) item by item | yes | not available | no |
| 105) Copies provided to parties | yes | not available | not usually |

VOLUNTEERS

| Volunteers | Charlottes | Fairfax | Fredricks |
|--------------------------------|--|--|-----------------------|
| 131) Volunteers used | yes; mostly as mediators (about 30 active). | use volunteer coordinators in the counties. | yes |
| 132) Volunteers paid | no | the office help are also volunteer mediators who are paid a stipend. | no |
| 133) Training given volunteers | in exchange for mentorship the mentorees are asked to give a one year commitment of service back to the center. The center exercises the right to choose who they will mentor from the training sessions | each month there is an optional 2 hour in-service available to the volunteer mediators | no |
| 134) Offer in-service training | yes; general plus in-services from outside experts | see question #133 | once in a great while |

VOLUNTEERS

| Volunteers | Harrison | Norfolk | Richmond |
|----------------------|---------------------------------------|---------|-------------------|
| 131) Volunteers used | yes, as office fill-ins and mediators | yes | yes, as mediators |

| | | | |
|---------------------------------------|---|--|-----------------------------------|
| 132) Volunteers paid | board members; mediators; a bit as training assistants; occasionally as office staff; just a bit for fund- raising events; would like to use volunteers more actively and creatively | no | no |
| 133) Training given volunteers | yes, monthly mediator meetings ¹⁶³ | now only in office routines and newsletter (soon in mediation) | no structured training offered |
| 134) Offer in- service training | see question #133 | no | no |

VOLUNTEERS

| Volunteers | Roanoke | Staunton | Warrenton |
|----------------------------|---------|--|--|
| 131) Volunteers used | yes | only as mediators, not as office staff | in this organization even the director is a volunteer. "We've gotten to where we are today on volunteer efforts." There is no paid staff. |
| 132) Volunteers paid | no | no | the director has been paid occasionally for some special projects. |

¹⁶³ these meetings are offered at two different times of the month to accomodate as many of the mediators as possible

| | | | |
|--------------------------------|--------------------------------|----------------|---------------------------------------|
| 133) Training given volunteers | no structured training offered | not applicable | whatever it takes to get the job done |
| 134) Offer in-service training | no | not applicable | yes |

APPENDIX 3

QUESTIONNAIRE OVERVIEW

Organizational Information

Funding and Budget

Contacts

Mediations

Mediators

Releases

Evaluations

Employees

Volunteers

Boundaries

Mission

QUESTIONNAIRE SAMPLE QUESTIONS

The following is a questionnaire about your dispute resolution center. Most questions can be answered with very short answers. Others request information be provided which you may or may not have readily available.

- ORGANIZATION

What do you call your organization?

Are you incorporated?

Within what type environment, if any, is your organization physically exist (court, university, etc.)?

In what type geographic setting does your organization exist (rural, urban, suburban, inner city)?

How did your organization come to exist?

How are you categorized for tax purposes?

What is the mission statement of your organization?

What are the primary goals of your organization?

When was your organization established (for mediation purposes)?

Does your organization have an independent physical plant?

How many square feet does your organization occupy?

What is the location of your organization's (main) facility?

Are you computerized? What do you use the computer to do for you?

Do you share your facility with any other organization?

Are you under the auspices of any parent organization? (if answer is negative, please ignore the following four questions)

◇What is its name?

◇What is its primary purpose?

Does it provide funding, or funding in kind, to your organization?

Approximately what percent of your funding comes from your parent organization?

Do you have any branch offices or remote sites (i.e., courthouse, etc.)? (if response is negative, please ignore the following two questions)

◇ How many sites do you operate other than the main site?

◇ What is the type of location in which these branch sites are located (courthouse, university, community center, etc.) ?

What kind of presence does the center have in the community?

Membership?

• FUNDING

What is the most substantial source of your funding? if appropriate please indicate approximate percentages beside each source applicable to your organization

a) private corporation(s)

b) state

c) federal

d) private contributions

e) payments for services rendered (i.e., mediation, arbitration, etc.)

f) university

g) other (please indicate)

Do you charge for services rendered? if so, please indicate what portion of your cases are payment producing?

If you do charge clients for services rendered, please answer the following questions:

- ◊ Please indicate if you require a) one or b) all parties to pay for services.
- ◊ If only one party pays, please indicate which party is responsible, and under what conditions they are responsible, for payment (complainant or responder).
- ◊ Do parties pay by the session or by the hour?

Do you provide a sliding scale for payment to your clients? What is (are) the basis of the scale(s)?

Is there a charge for phone conciliations? Are you contemplating one?

Is there a back charge for phone time spent by intake workers and/or mediators if proceedings are initiated?

Do you know of an estimated cost per completed mediation?

- ◊ If affirmative, what is that cost?
- ◊ What does the cost include and exclude?

• CONTACTS

How many inquiries about mediation does your organization receive annually?

How do you count your inquiries (ex: per new phone contact, per registered complaint, per conciliation/mediation/arbitration actually initiated, etc.)?

When a contact calls the center what processes are set into motion?

Do you find that your contacts follow a cyclical pattern of any kind (ex: following major holidays, during hot weather, during the full moon)? If so, please specify.

What portion of your contacts go to mediation?

What portion of your contacts are conciliated?

What portion of your contacts, if any, are arbitrated?

What portion of your contacts are initiated by corporations or businesses seeking assistance?

What portion of your contacts are of a business-to-business nature.

What portion of your contacts are of an interpersonal (a person-to-person) nature?

What portion of your contacts are of a business-to-person nature?

Do you receive any referrals from the courts?

◊ Do you have a site in or near the courthouse for that purpose?

Are the courts cooperative with regard to being open to the concept of mediation as an alternative to formal court processes? How do the judges operate with regard to your services?

Could you please provide a brief outline of the information or copies of materials provided to a new contact (costs, advantages of mediation over other interventions, time requirements, etc.)

Who generally speaks to new contacts (receptionists, trained mediators, etc.)?

◊ Are they trained specifically for the job of conciliation/mediation?

◊ Does the person who does intake typically assess a case for potential of mediation?

◊ Does the intake worker attempt conciliation? If yes, about what portion of the time is conciliation attempted

How and by whom are respondents contacted?

• MEDIATIONS

How long do your mediations generally last (i.e., is there a typical time frame around which they generally fall)?

Are many of your cases multiple session mediations?

Do you practice any shuttle mediations?

◇ Do you have an established policy on this?

◇ Do you make exceptions? Only when it is a last minute change of plans that would required otherwise.

Do you do only male/female mediations?

Do you do in-service trainings?

◇ How often?

◇ Do you charge?

How many mediations does your center (and its branches, if any) perform annually?

What portion of these mediated disputes are actually settled through (i.e., at the end of a session(s)) mediation?

What portion of your intake cases do not go to mediation because of lack of willingness on the part of the respondent?

What portion of your intake cases do not go to mediation because of lack of willingness on the part of initiators?

What portion of your intake cases do not go to mediation or any other ADR form offered by your organization because they are inappropriate for intervention?

Does your organization handle divorce mediation?

Does your organization handle cases involving:

◇ Drug abuse of one or more of the parties?

◇ Alcohol abuse of one or more of the parties?

◇ Physical abuse of one or more of the parties?

◇ Sexual abuse of one or more of the parties?

Are there any other general categories of practices from which your organization will not deal?

- MEDIATORS

Does your center's philosophy support solo or co-mediator mediations?

◇ Do you have an established policy on this?

◇ Do you make exceptions?

Do you do only male/female mediations?

Does your organization use different specialists for different types of mediation? Does your agencies agenda support base information on the part of the mediator as required, preferential or desirable?

Do you do in-service trainings?

◇ How often?

◇ Do you charge?

Does your center accept all trained individuals as mediators? If no please explain

Do you have enough mediators? Too many?

What portion of your mediators are certified?

Do you provide an outline of topics to cover in the mediation to your mediators? Any other materials?

Do your mediators conclude the mediation by typing a formal agreement or do they hand write the agreement for signature?
Other method?

Are the agreements signed "on the spot"?

Who actually assesses and receives payment for the mediations?

Do you bill for services or is the work strictly C.O.D.?

Are the parties given a copy of their agreement?

- RELEASES

Do you provide a release form for your clients to sign? When? Please provide a copy of the release form.

Do your mediators also sign the release?

Do your mediators read the release form to the parties?

Do your mediators explain the release form? Item by item?

Do you provide a copy of the signed release forms to each party?

- EVALUATION

Do you evaluate mediation effectiveness and/or satisfaction? If affirmative, please answer the following questions:

Does the center keep a copy of the Supreme Court evaluation form?

Please provide a copy of whatever evaluation and/or follow-up materials you employ.

When do perform your evaluations?

If you perform multiple post-mediation evaluations, are you aware of a (non-statistically or statistically) significant difference in the

responses over time? Please briefly indicate your most impressive results?

Would you like to perform post-mediation evaluations and/or follow-ups?

If you offer more than one post-mediation evaluation please indicate when they are done and/or at what intervals they are done?

How are your evaluations performed (i.e., phone, mail, in-person, etc.)?

Are responses to evaluations followed up? How? Under what circumstances are they followed up (routinely, in cases of dissatisfaction, randomly, etc.)?

Why do you perform evaluations?

Do you feel your evaluation process is productive? How?

If you do not feel your evaluation process is productive, why not?

How would you change your evaluation process if you could?

Are your evaluation result scrutinized by any other agency?

Who is responsible for performing and/or following up your evaluations?

Do you perform follow-up inquiries on mediated outcomes? When? How?

Who do you ask to fill out evaluations (i.e., only those complete the mediation process, any one who calls, etc.)?

Does the State require you to do any evaluations? Under what circumstances?

• EMPLOYEES

How many paid individuals does your organization employ?

What kind of presence do the leaders, both lay and professional, have in the community? Has this presence been beneficial?

Please list major job categories and a brief description of each position in your organization.

How many of the organization's employees are dedicated to mediation (vs. administrators, janitorial, secretarial, etc.). Please approximate this answer using fractions of an individual if necessary to indicate time split between duties, i.e., half time spent on administrative duties.

Does your organization use any attorneys as mediators? Are they paid? How much? Is this rate different than for other mediators?

Are a) any or b) all of your mediators certified by the state?

What type of training do your mediators have?

Do you do a) in-house or b) extra-organizational training?

• VOLUNTEERS

Do you have an active board of directors?

Do you have a mentorship program in-house? How long does it typically take to complete the program? How long have you been doing a mentorship program? How many people do you have enrolled currently?

Does your organization use volunteers?

Do you take, as mediators, the people you train?

What type of training are your volunteers given. Please be specific with regard to your volunteer mediators.

In what positions, and how many individuals in each position does your organization use?

- BOUNDARIES

Do you have boundary issues (as per case assignments and/or jurisdiction) with any other centers? If yes, how have you resolved these issues? Do you have a formal agreement?

Do you compete for clients with private mediators or other mediation centers?

Do you have any court contracts? Other contracts?

Do you, or have you competed with other individuals/centers for court contracts?

IN DEPTH CASE STUDY

The purpose of this session is to capture, from one of the certified mediators involved in the completed case, a full picture of the case as it unfolded. The mediator is to present all of the information about the actual mediation as accurately and objectively as possible. It is also important to have the mediator reflect upon his/her personal reactions to the process and the individuals.

It is the wish of the researcher that the case itself is selected on the basis of one of several criteria (following). The researcher is attempting to assemble a selection of 10 distinct types of cases for the final dissertation review.

Criteria for selection of a case to be studied, any one of the following will make for a suitable selection. However, there is to be no overlap in types of cases done in any of the centers. Therefore, if a center has already “claimed” a particular type of case it can not be reiterated by another center:

- cutting-edge type of mediation
- “specialty of the house”
- new type of mediation for your center
- most frequently done mediation (in your center)
- personal favorite
- most successful type mediation

The in depth case study will be audio taped (as will the facilities interview). All names will be changed to protect confidentiality issues. If possible the name of the nearest cosmopolitan area will be retained for demographic integrity purposes.

IN DEPTH CASE STUDY QUESTIONS

I. Beginnings

- A. Who did the intake for this case?
- B. Did the mediator(s) have any prior knowledge of the case?
- C. Did the mediator(s) have any expertise in the case?
- D. Had any of the parties used a formal mediation process prior to this case?
- E. How did the case come to the center (referral)?
- F. Was the case done with a solo or co-mediation?
- G. Were any shuttle mediations attempted?
- H. How else was this case handled previous to the mediation (attorneys, social workers, etc.)?
- I. Where was the case mediated? Only one site?
- J. How many parties participated (other than the mediator)?
- K. How many individuals participated in the mediation (other than the mediator)?
- L. Were the number of participants limited by the mediator? In advance?
- M. Were first names used in the mediation?

II. Guts

- A. Were consequences to non-performance outlined?
- B. Were there any provisions that had to be carried out after the conclusion of the mediation? Were they effected (carried out)?
- C. Was conciliation attempted?
- D. How many sessions were required to come to agreement?

III. Endings

- A. Was the entire case resolved through the mediation or were portions left to other means?
- B. Was an evaluation done by the parties? When? Any other follow up evaluation?

IV. Details

- A. How long did the case take from intake to resolution?
- B. Approximately how many hours went into the case, including intake and conciliation, if any?
- C. Who paid for this case to be mediated? How much was paid?
- D. May we please have a copy of the contract for the study?
- E. Were the results reported to the courts? Did the judge use the agreement? Verbatim?
- F. Were the parties satisfied with their mediation experience?
- G. Was a consent (release) form given to each party and/or participant to read and sign?
- H. Was the consent form completely explained verbally to all parties?
- I. Were copies of the agreement copied and given to each party?

APPENDIX 4

MISCELLANEOUS ITEMS

- Introductory letter
- Appointment letter
- Case Study Questions
- Directory of CDRCs
- Questionnaire Overview
- Questionnaire Questions
- Process Chart

Date

Name _____,
 Director
 Agency Name
 Address
 City, State, Zip Code

Dear _____:

As a certified mediator, I have a special interest in the field of alternate dispute resolution and its advocacy. In an effort to enhance the support for our work I have dedicated my doctoral dissertation to the study of Community Dispute Resolution Centers in the United States.

My research is focused on assessing the work of the CDRC. The information will serve as a baseline and reference for community and government support of this valuable asset to the justice system. In order to complete this work I will be asking all CDRCs to respond to a questionnaire. A few centers may be asked to submit to some future inquiry. It is imperative that your center respond to the questionnaire in order to be included. With total participation, the presentation can be used dynamically for lobbying and funding initiatives.

As a first step, I would like to ask you for the following information. It will significantly shorten the upcoming questionnaire:

- your most current annual report;
- any promotional materials with background information.
- the contact person (if other than the executive director

This study is sponsored and approved by the College of Business and Public Administration, Old Dominion University. If you wish to contact them for any reason you may call or write to Dr. Berhanu Mengistu, Old Dominion University, _____ Hampton Boulevard, Norfolk, VA _____.

Allow me to thank you in advance for your prompt reply and cooperation.

Sincerely,

Terri Colby Barr, M. Ed, M.S.W.

Terri Colby Barr

Va. Beach, VA

_____, 1994

----- Center

_____, VA 22186

_____, Director

Dear Laurie,

I have spoken to Patty several times and I am sending you duplicate information for you both to review. Hopefully, you know all about this by now. If not...call me and I will explain. I don't wish to be the least bit presumptuous.

Thank you for taking the time to review this questionnaire and case study overview before our meeting. I realize that on first glance it seems foreboding. Don't despair. I will be audio taping our interview and the questions will move along quickly and (hopefully) easily.

As I mentioned to Patty, I would appreciate you allowing for approximately four hours for the agency interview. The in depth case should not take as long.

It would be helpful if you could have any reference materials you may need and/or I could use ahead of time. The only thing that I will need is an electrical wall outlet and your cooperation.

There is the distinct possibility that I may need to call you back at some point in the future for clarification of an issue. I will try to be as complete as possible. If there are topics or questions which you feel are wantonly omitted; please, do not hesitate to let me know so that I may include them in my general questionnaire. The more complete my interview, the better the end product.

I believe that we discussed using a _____ dispute for your in depth case study. I would like to confirm that with you now. I am excited about your choice. I am eager to begin working with you and _____.

I will be calling in the near future to firm up more details. I look forward to speaking to you and seeing the two of you bright and early on _____. If any questions develop you can reach me at 800 344-1261

(Va. Beach). I will be working at the _____ center with _____
on the 13th if you need me.

Sincerely,

Terri Colby Barr, M.S.W., M.Ed.

Directory of Community Dispute Resolution Centers

Commonwealth of Virginia

Community Mediation Center (703) 434-0059
 383-A North Main Street
 Harrisonburg, VA 22801
 Kathy Smith, Director

Conflict Resolution Center (703) 342-2063
 P.O. Box 1185 fax (703) 345-9161
 Roanoke, VA 24006-1185
 Kathy Stockburger, Director home #703 342-8880
 Rosemarie Dudley, ass't

Dispute Settlement Center (804) 625-2916
 3608 Tidewater Drive
 Norfolk, VA 23509
 Laurie Grohowski, Director
 Susan Wingo, Judy Rubin

Northern Virginia Mediation Service (703) 993-3656
 (George Mason University) fax # (703) 934-5142
 4130 Chain Bridge Rd
 Fairfax, VA 22030
 Ramona Buck, Director

Richmond Dispute Resolution Center (804) 343-7355
 701 East Franklin Street, Suite 712
 Richmond, VA 23219

Al Bridger, Director

Augusta Center for Mediation, Inc. (703) 886-4262

One Lawyers' Row

Staunton, VA 22401

Dr. Jim Gilman, president 703 886-1891

719 Opie St fax 703 886-5561

Staunton, VA 24401

2nd office in Waynesboro 703 949-4262

office mgr. in 9-1 at one or other office

Mediation Center for Central (804) 845-3218

Virginia, Inc.

310 Fifth Street

Lynchburg, VA 24504

Deborah Bradner, Acting Director

The Mediation Center (804) 977-2926

Focus

1508 Grady Avenue

Charlottesville, VA 22903

Rosamund Dingleline, Director

ass't Pat LaRue

The Rappahannock Mediation (703) 372-7740

Center

P.O. Box 7162

Fredericksburg, VA 22404

Curtis Pendergrass, Director

The Piedmont Dispute Resolution (703) 347-6650

Center (recently branched off of Rappahannock)

P.O. Box 809

Warrenton, VA 22186

Laurie Parker, Director

Patty Cloud, president?

(703) 364-1614

PO Box 486

fax # (703) 364-3418

Marshall, VA 22155

VITA

Terri Colby Barr was born October 20, 1952 in Chicago, Illinois. She received a Bachelor of Science degree in Sociology from Bradley University in Peoria, Illinois in 1973; her Masters of Education degree from Old Dominion University in Norfolk, Virginia, in 1974; her Masters of Social Work degree from Norfolk State University, in Norfolk, in 1977; her Masters of Urban Studies from Old Dominion University in 1996; and her Doctor of Philosophy in Urban Services from Old Dominion University in 1996.

She has held numerous positions on the boards of directors of non-profit and community organizations. Her current activities include the board of directors of Ghent Square Association, Beth Sholom Nursing Home, B'nai Israel Congregation, United Jewish Federation Women's Cabinet, and the executive board of Brandeis University Women's Committee and of the Hebrew Academy of Tidewater. She is a member of the Society of Professional in Dispute Resolution and the Virginia Mediation Network. She is a founding partner in Consensus, a professional corporation specializing in mediation, training, and facilitation.