

# COMMUNITY MEDIATION IN ECONOMIC CRISIS: THE REEMERGENCE OF PRECARIOUS SUSTAINABILITY

Wendy E. Hollingshead Corbett\* & Justin R. Corbett\*\*

*“With its emphasis on individual self-determination, community self-reliance, and equal access to justice for all, community mediation is truly dispute resolution ‘of the people, by the people, and for the people.’”*

—Timothy Hedeem<sup>1</sup>

*“Ninety-nine percent of community mediation centers report funding and financial stability as the greatest concerns for both their center and the broader field.”*

—National Association for Community Mediation<sup>2</sup>

## I. INTRODUCTION

Community mediation is a grassroots, neighbor-to-neighbor form of alternative dispute resolution that has seen growing acceptance nationwide since its inception in the mid-1970s. The premise of community mediation is simple: to provide the public with a voluntary way to resolve conflict in a productive, collaborative manner that relies primarily on self-determination.<sup>3</sup> Community mediation strives to keep justice in the hands of the people and provide a receptive forum for their enhanced voices.<sup>4</sup> Over the past several decades, the unique grassroots-orientation of community mediation has proven to be highly effective in resolving interpersonal conflict at the local level.<sup>5</sup> It has also been

---

\* Wendy E. Hollingshead Corbett is the Program Coordinator for Solve-It! Community Mediation Service in Chandler, AZ. She is a Faculty Associate and Ph.D. candidate in the School of Social Transformation at Arizona State University. Wendy previously served as the Jr. Co-Chair of the National Association for Community Mediation’s Board of Directors.

\*\* Justin R. Corbett is the Executive Director and former Board member of the National Association for Community Mediation. In 2007, he founded and served until 2009 as Executive Director of INDYSPUTE, a community mediation center in Indianapolis. He is currently an Associate Faculty member of negotiations and ADR at Indiana University-Indianapolis.

<sup>1</sup> Timothy Hedeem, *The Evolution and Evaluation of Community Mediation: Limited Research Suggests Unlimited Progress*, 22 CONFLICT RESOL. Q. 101, 101 (2004).

<sup>2</sup> AMBER HARDIN, NAT’L ASS’N FOR CMTY. MEDIATION, THE STATE OF COMMUNITY MEDIATION: REPORT ON 2004 DATA 17 (2004).

<sup>3</sup> Timothy Hedeem, *Coercion and Self-Determination in Court-Connected Mediation: All Mediations Are Voluntary, but Some Are More Voluntary Than Others*, 26 JUST. SYS. J. 273, 274 (2005).

<sup>4</sup> See Timothy Hedeem, *Institutionalizing Community Mediation: Can Dispute Resolution “of, by, and for the People” Long Endure?*, 108 PENN. ST. L. REV. 265, 268-69, 271 (2003).

<sup>5</sup> HARDIN, *supra* note 2, at 11.

linked to broader community impact such as increases in citizen participation and involvement in issues of social justice,<sup>6</sup> as well as reductions in violence and crime<sup>7</sup>—including decreased reliance on law enforcement for conflict situations.<sup>8</sup>

Despite the valuable services that community mediation centers bring to the communities in which they operate, sustainability—or the maintenance of and access to resources that keep their services relevant and processes adaptive—is a continuous struggle.<sup>9</sup> This struggle is amplified as economic crisis grips the nation.<sup>10</sup> Economic crisis, to a field in which resource allocation is already extremely competitive, may mean extreme budget cuts, program cessation, or even the closing of centers' doors altogether. To remain sustainable in times of economic crisis, therefore, many community mediation centers, which already offer innovative services, must also adopt or develop innovative operational strategies to stay afloat. Some succeed, others fail.<sup>11</sup>

Membership rates in the National Association for Community Mediation (NAFCM) are a telling example. At its membership peak in 2002, NAFCM boasted over five hundred members nationwide.<sup>12</sup> Present rolls place the NAFCM network at roughly three hundred members nationwide,<sup>13</sup> with annual membership drives yielding discouragingly familiar stories of centers which, lost to battles of budgets and funding, have closed their doors.

After experiencing notable growth in the number of centers and community mediation programming for more than three decades, these more recent declines are disheartening to the practitioners, clients, and proponents of community-level dispute resolution.<sup>14</sup> It becomes imperative, then, to research the centers currently maintaining their services in light of the economic climate to learn from both their successes as well as their self-identified missteps.

---

<sup>6</sup> See Beth Gazley et al., *Collaboration and Citizen Participation in Community Mediation Centers*, 23 REV. POL'Y RES. 843, 858 (2006). See generally Dana Morris-Jones, *Resolving a Community Dispute: The Intersection of Organization Development and Mediation*, 88 NAT'L CIVIC REV. 67 (1999).

<sup>7</sup> See Raymond Schonholtz, *Justice from Another Perspective: The Ideology and Developmental History of the Community Boards Program*, in *THE POSSIBILITY OF POPULAR JUSTICE: A CASE STUDY OF COMMUNITY MEDIATION IN THE UNITED STATES* 201, 219 (Sally Engle Merry & Neal Milner eds., 1993).

<sup>8</sup> Lorig Charkoudian, *A Quantitative Analysis of the Effectiveness of Community Mediation in Decreasing Repeat Police Calls for Service*, 23 CONFLICT RESOL. Q. 87 (2005).

<sup>9</sup> DANIEL MCGILLIS, *COMMUNITY MEDIATION PROGRAMS: DEVELOPMENTS AND CHALLENGES* 80 (1997).

<sup>10</sup> For information and analyses regarding the recent economic crisis, see generally JOHN BELLAMY FOSTER & FRED MAGDOFF, *THE GREAT FINANCIAL CRISIS: CAUSES AND CONSEQUENCES* (2009); Alan J. Auerbach & William G. Gale, *The Economic Crisis and the Fiscal Crisis: 2009 and Beyond*, 125 TAX NOTES 101 (2009).

<sup>11</sup> See PAUL WAHRHAFTIG, *COMMUNITY DISPUTE RESOLUTION, EMPOWERMENT AND SOCIAL JUSTICE: THE ORIGINS, HISTORY, AND FUTURE OF A MOVEMENT* 59 (2004).

<sup>12</sup> Membership Directory, National Association for Community Mediation (2002) (on file with National Association for Community Mediation).

<sup>13</sup> Statistics are based on NAFCM membership rosters and may not reflect the most current numbers at the time of publication. *Id.*

<sup>14</sup> This sentiment was garnered from the authors' personal experiences, reports from colleagues in the field, and data presented later in this Article. See *infra* Part III.

The research study presented here will explore results from surveys and open-ended questions administered to NAFCM members during 2009 and 2010. The surveys gauged both the impact of the economic crisis on community mediation centers nationwide, as well as various sustainability measures employed by the centers as the economic downturn worsened. Drawing upon the survey findings, this Article offers practical and strategic recommendations for centers to consider as they labor to weather the turbulent economic waters.

This Article begins by outlining the roots and characteristics of community mediation centers, followed thereafter by a brief summation of their accomplishments and challenges. Next, it outlines the research methods used in compiling and analyzing the presented data. A discussion is then offered on how the economic downturn has already and may continue to affect centers, as well as how successful centers have been able to weather the economic storm. Finally, recommendations are proffered, entreating the practitioner readership to explore how they may adjust their operations to correct for shifts in resources or plan for future downturns. Threaded throughout this Article, is the affirmation that community mediation is a valuable service, administered by centers which place the peacemaking process where it should begin—at the local level—with hopeful horizons ahead.

## II. ROOTS AND CHARACTERISTICS OF COMMUNITY MEDIATION CENTERS

Community conflict management has its roots in traditions from around the world and across generations, but its modern U.S. incarnation was due largely to social developments in the 1960s and 1970s.<sup>15</sup> Not only were issues of equal rights and basic human empowerment at the forefront of debate in civil society during those times, but advances in technology and mobility were also simultaneously reshaping fundamental social connectedness—paradoxically enabling geographic dispersion while at the same time entreating relational insularity.<sup>16</sup> As a result, larger populations found themselves transported to a more anonymous existence. Consequently, community conflicts that formerly may have been settled interpersonally through familial, friendly, or ecclesiastical means adopted a formality that pushed most resolution into the hands of the court systems.<sup>17</sup> Very quickly, local courts became overburdened with cases,<sup>18</sup>

<sup>15</sup> WAHRHAFTIG, *supra* note 11, at 2; MCGILLIS, *supra* note 9, at 2; Albie M. Davis, *How to Ensure High-Quality Mediation Services: The Issue of Credentialing*, in COMMUNITY MEDIATION: A HANDBOOK FOR PRACTITIONERS AND RESEARCHERS 203, 216 (Karen Grover Duffy et al. eds., 1991). Davis states:

[C]ommunity mediation arose at a time when activism flourished in areas such as reform of the justice system, civil rights, feminism, community empowerment, self-help, voluntarism (Peace Corps, VISTA), and consensual problem-solving. Many threads were woven together to form a new fabric. The federal government was willing to play a major role in supporting the growth of such efforts through grants backed by guidelines calling for community involvement and equitable representation.

*Id.*

<sup>16</sup> See MCGILLIS, *supra* note 9, at 6.

<sup>17</sup> Hedeem, *supra* note 1, at 102.

<sup>18</sup> MCGILLIS, *supra* note 9, at 61; Louis Kriesberg, *The Development of the Conflict Resolution Field*, in PEACEMAKING IN INTERNATIONAL CONFLICT: METHODS & TECHNIQUES 51, 58 (I. William Zartman & J. Lewis Rasmussen eds., 1997); Robert L. Stern, *Remedies for*

and the subsequent delays in services and the high costs involved became a source of frustration for the public.<sup>19</sup>

In 1976, Chief Justice Warren Burger petitioned the courts to support alternative dispute resolution (ADR) programs for the purposes of lightening court dockets and placing some aspects of justice back into the hands of the people.<sup>20</sup> These early experimental programs, called Neighborhood Justice Centers, began not only as mediation facilities, but also as sources of other ADR and conflict intervention services.<sup>21</sup> The value of utilizing mediation as a voluntary process for community disputes was quickly recognized and many programs renamed themselves Community Mediation Centers, or some sobriquet derivative therefrom. By the early 1990s there was such a significant number of these centers being developed nationwide<sup>22</sup>—a credit to the appeal of the “popular justice” movement—that the NAFCM was formed to aid in the continued advancement of the budding field, and provide a national voice for centers’ interests.

NAFCM began in 1993 as a small group of community mediation center directors who coalesced around a shared mission: “[T]o support the maintenance and growth of community-based mediation programs and processes, to present a compelling voice in appropriate policy-making, legislative, professional, and other arenas; and to encourage the development and sharing of resources for these efforts.”<sup>23</sup> To this end, NAFCM has collaborated on projects with numerous federal and state agencies, national funders, and aligned stakeholders to disseminate and enhance consumable conflict resolution skills in its pursuit of the broader goal of actualized community justice.<sup>24</sup>

NAFCM has created a list of conceptual and organizational characteristics to improve mediation centers’ effectiveness in realizing the broader goals of community mediation.<sup>25</sup> These characteristics, several of which are listed

---

*Appellate Overloads: The Ultimate Solution*, 72 JUDICATURE 103, 103 (1988); Paul Wahrhaftig, *Nonprofessional Conflict Resolution*, 29 VILL. L. REV. 1463, 1465 (1984).

<sup>19</sup> See Frank E. A. Sander, Professor of Law, Harvard Univ., Address at the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice: Varieties of Dispute Processing (Apr. 7-9, 1976), in 70 F.R.D. 79, 113-14 (1976).

<sup>20</sup> See Warren E. Burger, Chief Justice of the U.S., Keynote Address at the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice: Agenda for 2000 A.D.: A Need for Systematic Anticipation (Apr. 7-9, 1976), in 70 F.R.D. 79, 88, 91, 93 (1976).

<sup>21</sup> See WAHRHAFTIG, *supra* note 11, at 13.

<sup>22</sup> See Timothy Hedeem & Patrick G. Coy, *Community Mediation and the Court System: The Ties that Bind*, 17 MEDIATION Q. 351, 352 (2000), available at <http://www.mediate.com/articles/cohed2.cfm>.

<sup>23</sup> The National Association for Community Mediation mission statement, found at [www.nafcm.org](http://www.nafcm.org) and within all NAFCM publications. *Purpose*, NAT’L ASS’N FOR COMMUNITY MEDIATION, <http://www.nafcm.org/about/purpose> (last visited Feb. 19, 2011).

<sup>24</sup> These projects include a three-year stint (1996-1999) providing conflict resolution training to more than 10,000 AmeriCorps members and staff, as well as developing a curriculum in 2002 designed to create linkages between community mediation centers and community policing. *Completed Programs & Activities*, NAT’L ASS’N FOR COMMUNITY MEDIATION, <http://www.nafcm.org/about/programs> (last visited Feb. 19, 2011).

<sup>25</sup> The list that follows is derived from the NAFCM website. *Purpose*, *supra* note 23. It is explained in more detail based on both the authors’ personal experience with community mediation centers and the following article: Hedeem, *supra* note 1, at 101.

below, are common to many programs, and are considered operational smart practices for community mediation centers nationwide.

*Volunteer community mediators.* Community mediation centers are expected to recruit, train, and utilize volunteer mediators who understand the purposes and principles of mediation and who reflect the ideals associated with ADR. Volunteers should also be representative of the diversity of the community population in which programming is provided. Centers should welcome volunteers of all ethnicities, backgrounds, religions, educational experiences, and other representative measures of communal composition.

*Self-referral.* Although many community mediation programs work in conjunction with local, regional, or state court systems to obtain and provide diversionary services, centers are not limited to court referrals when accepting cases. Centers are highly encouraged to be proficient in public outreach and education; informing their target populations of their services and receiving referrals and inquiries from a variety of agencies and affiliates, including self-referrals from residents of the communities they serve. One of the key tenants of community mediation is that the conflict resolution process is driven by the self-determination of the parties utilizing it, and the practice of self-referral to the process at the outset clearly demonstrates and supports this tenant.

*Pro bono or sliding scale services.* While most community mediation centers do charge fees for certain services to offset the costs of operating an efficient facility, these fees, when applied, are usually flexible and substantially lower than local market rates for private conflict resolution processes. The main impetus of many centers is to provide services to the community regardless of clients' abilities to pay.

### III. ACCOMPLISHMENTS AND CHALLENGES OF COMMUNITY MEDIATION CENTERS

Operating within this framework, community mediation centers have accomplished much while simultaneously facing emerging and perennial challenges. In 2002, NAFCM conducted program research amongst its vast membership. Findings from this research, along with other seminal field analyses,<sup>26</sup> highlight a few of the many achievements and trials of both individual centers and the broader field. While the following examples provide only an unexhausted introduction to systemic achievements, there exist innumerable and laudable accomplishments from dedicated center leaders and volunteers nationwide. A comparable introduction to challenges facing the field is subsequently provided.

#### A. Accomplishments

*Agreement/satisfaction rates.* Based on state-by-state program evaluations, anywhere from 70 to 98 percent of community mediation cases result in

---

<sup>26</sup> See, e.g., MCGILLIS, *supra* note 9; THE POSSIBILITY OF POPULAR JUSTICE: A CASE STUDY OF COMMUNITY MEDIATION IN THE UNITED STATES, *supra* note 7.

full or partial agreement.<sup>27</sup> Along with high rates of agreement, NAFCM member centers regularly reported high rates of client satisfaction with the process itself.<sup>28</sup> In follow-up interviews and surveys, approximately two-thirds of parties who participated in a community mediation session report full compliance with the terms of the resolution, while three-quarters also report no subsequent problems with their previous adversary following mediation.<sup>29</sup>

*Cost and time efficiency.*<sup>30</sup> Generally, legal institutions tend to be increasingly overloaded with cases. Consequently, their ability to serve as holistic and expedient arbiters of disputes for all citizens is diminished. When courts have difficulty keeping up with the incongruent supply of and demand for adjudicative services, cases begin to require additional time to process through the system. At the same time, reports show that a wide variety of cases, from child custody to victim restitution, are consistently settled more expeditiously via ADR programming than traditional litigious avenues.<sup>31</sup> Additionally, studies have shown that community mediation case fees average less than half of court costs.<sup>32</sup>

*Program diversity and responsiveness.* Nationally, community mediation centers offer a wide array of programming based on nuanced local needs and centers' ingenious visioning of conflict engagement. In 2004, centers reported nearly forty case types for which ADR programming was provided—from neighborly quarrels to gang violence, adult guardianship to adoption, community mediation centers have developed programming responsive to local needs.<sup>33</sup> Beyond sheer diversity, the reported frequency of most programming foci indicates many centers are a veritable one-stop-shop for any individual or organization seeking to redress a particular conflict.<sup>34</sup> Absent the centralized conflict management services housed in community mediation centers, the populace would be relegated to relying upon governmental agencies' labyrinthine procedures, overburdened courthouses, or society's strained relational constructs when faced with intractable, destructive conflicts.

---

<sup>27</sup> See, e.g., Timothy Hedeem, *From Intake to Mediation: Where Do All the Cases Go?*, COMMUNITY MEDIATOR, Summer 1999, at 9, available at <http://goo.gl/HcZ9F>.

<sup>28</sup> N.Y. STATE UNIFIED COURT SYS., COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM ANNUAL REPORT FOR FISCAL YEAR 1998-1999, at 7 (1999).

<sup>29</sup> ROYER, F. COOK ET AL., U.S. DEP'T OF JUSTICE, NEIGHBORHOOD JUSTICE CENTERS FIELD TEST: FINAL EVALUATION REPORT 49 (1980).

<sup>30</sup> A thorough resource that reports and analyzes the breadth and comparability of academic studies examining both court-connected (primarily) and community (marginally) dispute resolution programs has been compiled by Jennifer E. Shack at the Resolution Systems Institute. See generally JENNIFER E. SHACK, BIBLIOGRAPHIC SUMMARY OF COST, PACE, AND SATISFACTION STUDIES OF COURT-RELATED MEDIATION PROGRAMS (2d ed. 2007) (annotating important studies and providing community mediation centers easy access to statistics for comparisons to their own programs).

<sup>31</sup> *Id.* at 16, 47.

<sup>32</sup> Hedeem, *supra* note 1, at 123.

<sup>33</sup> HARDIN, *supra* note 2, at 5-9.

<sup>34</sup> *Id.*

### B. Challenges

*The problem of referrals.* The self-referral, or voluntary nature of community mediation centers, has historically been viewed as a positive distinction from court-annexed mediation programs.<sup>35</sup> When clients volunteer to participate in the mediation process, rates of agreement and procedural satisfaction improve.<sup>36</sup> Research indicates, however, that community mediation is still a rather obscure concept to the citizenry at large.<sup>37</sup> As a result, the number of self-referrals to programs is limited, causing many centers to rely on parentalistic referral relationships with local courts, agencies, and other affiliates.<sup>38</sup> Practitioners' acceptance of these community-court referral relationships varies along a continuum of philosophical perspectives, ranging from fundamentally and conceptually untenable, to practical necessities, to mutually beneficial bedfellows.<sup>39</sup> Informed, nuanced debates regularly occur among academics and practitioners about whether and how community mediation centers and local courts should structure relationships.<sup>40</sup> Some cautioners are especially concerned about the potential co-optation and institutionalization of community mediation by powerful referral partners.<sup>41</sup> Such principled critics espouse a legitimate concern that community mediation will lose its value as a non-coercive, voluntary resource for the public if it is mandated and increasingly governed by non-community actors, such as the judiciary.<sup>42</sup>

*The problem of research and evaluation.* Unfortunately and almost inexplicably, there is a lack of current research in the field of community mediation. This dearth is particularly conspicuous in areas of program design, diversity, trends, and outcomes.<sup>43</sup> As research helps keep stakeholders engaged and invested in the processes and developments of community mediation, it conversely stands that a lack of updated information would threaten to sideline the field in favor of timelier, sexier research and reporting from our private and public conflict resolution counterparts. In addition, misdirected or overly-narrow evaluations—often in the form of comparative data analyses based on criteria unrelated to the actual goals of community mediation<sup>44</sup>—threaten to

<sup>35</sup> See Hedeem & Coy, *supra* note 22, at 359.

<sup>36</sup> *Id.*; see also Lorig Charkoudian, *Economic Analysis of Interpersonal Conflict and Community Mediation* (2001) (unpublished Ph.D. dissertation, Johns Hopkins University) (on file with Johns Hopkins University).

<sup>37</sup> See Linda Baron, *Commentary: The Case for the Field of Community Mediation*, 22 CONFLICT RESOL. Q. 135, 142 (2004); see also DANIEL MCGILLIS & JOAN MULLEN, NEIGHBORHOOD JUSTICE CENTERS: AN ANALYSIS OF POTENTIAL MODELS 1 (1977).

<sup>38</sup> Hedeem & Coy, *supra* note 22, at 354.

<sup>39</sup> See Andrew Woolford & R. S. Ratner, *Nomadic Justice? Restorative Justice on the Margins of Law*, 30 SOC. JUST. 177, 181-82 (2003).

<sup>40</sup> See Christine B. Harrington & Sally Engle Merry, *Ideological Production: The Making of Community Mediation*, 22 LAW & SOC'Y REV. 709, 710 (1988).

<sup>41</sup> Hedeem & Coy, *supra* note 22, at 355-56; see also Patrick G. Coy & Timothy Hedeem, *A Stage Model of Social Movement Co-optation: Community Mediation in the United States*, 46 SOC. Q. 405, 406 (2005).

<sup>42</sup> Coy & Hedeem, *supra* note 41, at 405-06, 408.

<sup>43</sup> See Kem Lowry, *Evaluation of Community-Justice Programs*, in THE POSSIBILITY OF POPULAR JUSTICE: A CASE STUDY OF COMMUNITY MEDIATION IN THE UNITED STATES, *supra* note 7, at 89.

<sup>44</sup> WAHRHAFTIG, *supra* note 11, at 59.

divert programmatic focus away from community empowerment and toward colder measures of organizational efficiency. Such in vacuo evaluations can be found in some centers that entice funders with strong case disposition ratios, systematic cost saving comparisons, or the ever-enticing agreement ratios. Depending on the rigor of these evaluations, tracking such deliverables can require intensive, longitudinal data capturing and analysis systems.<sup>45</sup> Investing in such measures and their evaluation systems can slowly pull centers away from their broader potential as societal changemakers.

*The problem of funding.* A famous quote from Albie Davis regarding community mediation reads, “form follows funding.”<sup>46</sup> Since many programs are sponsored by umbrella groups, rely heavily upon a limited number of fund sources, and/or utilize free or sliding scale fee-for-service arrangements, available financial resources tend to narrow the scope of programmatic creativity, diversity, and reach.<sup>47</sup> Of even greater peril, however, is the danger of community mediation centers being forced to construct and modify their programming to reflect the practices and principles of their primary funding source. Such funder-encouraged deviations from the original intent of centers shift centers away from principles of community ownership such as access, diversity, volunteerism, and change<sup>48</sup> in the name of increasingly routinized and efficient methodologies.<sup>49</sup>

#### IV. METHOD AND FINDINGS

A series of surveys was administered to NAFCM members and related electronic listservs between March 2009 and April 2010. The first survey was initiated by NAFCM in the interest of gathering membership information to better elucidate the organization’s annual strategic planning. This survey, hosted online by SurveyMonkey during March 2009, was designed to gauge the impact of the faltering economy on community mediation centers nationwide. The beginning outlines of a field in crisis were revealed through this initial survey.

Upon this revelation, the authors determined a longitudinal study utilizing enhanced academic methodologies and research in nonprofit capacity building<sup>50</sup> would also be beneficial to specifically explore the efficacy of sustainability measures undertaken by centers striving to weather the increasingly

<sup>45</sup> *Id.* at 62.

<sup>46</sup> See Albie M. Davis, *Community Mediation in Massachusetts: Lessons from a Decade of Development*, 69 JUDICATURE 307, 308 (1986).

<sup>47</sup> HARDIN, *supra* note 2, at 18; see also JAN BALLARD & JOANNE GALINDO, STATE FUNDING FOR COMMUNITY MEDIATION (2006).

<sup>48</sup> See Hedeem & Coy, *supra* note 22, at 356-57.

<sup>49</sup> See *id.* at 364-65.

<sup>50</sup> Capacity building in nonprofits is defined as “the ability of nonprofit organizations to fulfill their missions in an effective manner.” Penelope McPhee & John Bare, *Introduction to BUILDING CAPACITY IN NONPROFIT ORGANIZATIONS* 1, 1 (Carol J. De Vita & Cory Fleming eds., 2001). Capacity building efforts are particularly important for small nonprofit organizations that possess limited resources when measured against the challenges and critical issues they address. For a fuller review of nonprofit capacity building theory and practices, see Carol J. De Vita et al., *Building Nonprofit Capacity: A Framework for Addressing the Problem*, in BUILDING CAPACITY IN NONPROFIT ORGANIZATIONS, *supra*, at 5.



turbulent economic downturn. A second survey, also hosted by SurveyMonkey, was therefore administered in April 2009 and repeated in April 2010. This longitudinal analysis was designed to gauge participating centers' internal and external approaches towards sustainability, as well as to identify which approaches most and least effectively produced their intended outcomes.<sup>51</sup> Both the initial economic impact survey and the subsequent sustainability surveys contained open-ended questions and text boxes for the purposes of gathering supplementary qualitative data to color the statistics revealed. Anonymity of research participants was assured through an online participant agreement prior to the beginning of each survey. Findings for all survey sets are analyzed independently.

A. *Setting the Stage: Economic Impact (Survey #1, March 2009)*

In March of 2009, thirty-five participants<sup>52</sup> who identified themselves as executive directors, program coordinators, or board members of nonprofit community mediation centers participated in an online survey titled: "Economic Impact on Community Mediation Centers." This initial study queried the mediation center leadership whether, how, and to what extent the then-deepening economic crisis had affected their organization. The survey was designed as a mix of sixteen quantitative and qualitative questions examining thirteen common funding sources; center budgeting, staffing, and volunteerism; case types, volume, and serviceability; sustainability, contraction, or closure strategies; and overall organizational impact. Five-point Likert scale questions queried level of impact ranging from major positive impact to major negative impact, whereas qualitative sections allowed for open-ended comments for center leaders to clarify, anecdotalize, or otherwise expound upon their radial responses. Many respondents capitalized upon these qualitative outlets, allowing the following analysis to benefit from both a granulated appreciation of specific centers' experiences as well as a rounder understanding of emerging trends in the field.

Examining first centers' budgets, nearly 77 percent of leadership reported their center had experienced either a moderate or major negative impact on their overall budget within the first quarter of the economic crisis.<sup>53</sup> Whether unfortunately timed to coincide with centers' previously scheduled contract

---

<sup>51</sup> Participants were asked to reflect on measures implemented between January 2009 and January 2010.

<sup>52</sup> Though this initial survey is limited in the number of responses, the authors have confirmed the validity of its findings through qualitative commentary received from NAFCM listserv discussions, during gatherings of community mediation center leaders, and through personal communications with center administrators. Further support for the validity of these findings comes from a report by GuideStar. *See generally* CHUCK McLEAN & CAROL BROUWER, GUIDESTAR, THE EFFECT OF THE ECONOMY ON THE NONPROFIT SECTOR: A JUNE 2010 SURVEY (2010). With over seven thousand responses from the broader nonprofit sector, the GuideStar survey reinforces the general similarity of community mediation's economic experiences with those of their larger nonprofit brethren, including the availability of fewer financial resources, market increases in service demand, and programs' implementation of a broad range of budget containment measures. *See id.* at 2-6.

<sup>53</sup> *See generally* FOSTER & MAGDOFF, *supra* note 10; Auerbach & Gale, *supra* note 10, at 101.

renewals, or as a result of the near audible cinching of funders' collective charitable belts, numerous centers reported a rather swift onslaught of funding setbacks when broader economic conditions began to deteriorate. Given centers' often weighty, if not exclusive, reliance on a limited number of funders, the hasty, unanticipated reductions evoked acute financial crises, especially amongst less endowed centers.

Delving into distinct revenue streams, centers then reported the specific funding source that most significantly contributed to their largely negative economic impact. Government and foundation funding at the local, state, and national levels; charitable (personal) giving; fee-for-service, training, sales, and investment revenues; and in-kind contributions were all measured individually. Most notable amidst the reporting, beyond the visually striking one-sidedness of negative accounts, were the budgetary decreases reported within the local and state government funding, charitable giving, and training revenue streams—each of which reported larger than 50 percent of respondents identifying some negative impact. On some measured positive note, however, slightly over 40 percent of centers reported fee-for-service revenue as demonstrating either a moderately positive increase or no notable change. This is likely a result of centers' reported increase in overall case volume following the economic downturn.<sup>54</sup>

Provided the opportunity to detail or forecast practical implications resulting from centers' diminished budgets, respondents reported measures composed of equal parts responsive accountability and demoralizing anxiety. Salaries, professional development, volunteer benefits and recognition, office resources, ancillary and core programming, staff hours, and even entire staff positions were all areas on which leadership reported reductions or outright eliminations. One participant reported the necessity of adopting "even more miserly" approaches toward operating, a recognition that many centers functioned within exceptionally modest budgets even before the economic downturn. "It looks dire. We are not encouraged at all," reported one center. This feedback highlights that for many centers, cuts bordering upon outright amputation rather than mere cosmetic tucks were already underway or being considered when the survey was conducted.

Personnel abridgements, attrition, and eliminations demonstrate one such area of devastating administrative amputation. Nearly half of participating centers reported the need to reduce staff hours, positions, or both. Such personnel reductions are particularly devastating when over three-quarters of community mediation centers operate on staffs of five or fewer dedicated employees.<sup>55</sup> Small staff sizes, coupled with their "tend[ency] to be grossly underpaid for the amount, importance, and quality of work they perform" can lead to burnout, turnover, and resulting undulations in program capacity.<sup>56</sup> In one indicator of increasing stress from the economic crisis, just shy of 60 percent of centers reported staff morale as having suffered measurable negative impact. This

<sup>54</sup> For more information about how economic and financial crisis affects conflict, see Leonard I. Pearlin, *The Sociological Study of Stress*, 30 J. HEALTH & SOC. BEHAV. 241, 247 (1989).

<sup>55</sup> HARDIN, *supra* note 2, at 11.

<sup>56</sup> MCGILLIS, *supra* note 9, at 87.

stress was typified by one executive director who reported “we are all scared for our jobs and futures right now.”

Not to be entirely disheartened, many community mediation leaders—in their reliable, future-oriented optimism—took note of encouraging signs they gleaned peering through the encroaching economic darkness. Their tuned judgment, though appearing at first blush the pinnacle of *Schadenfreude*, found increases in divorce, foreclosure, and unemployment as potential programmatic gold upon which centers could capitalize to help buoy buffeted budgets. Far from opportunistic, however, the community mediation field—an accessible, professional network espousing humanistic engagement—is conceptually, geographically, and professionally—though decreasingly financially—positioned to assist a devastated citizenry through what may prove to be some of the most difficult collective conversations of our generation. Community mediation centers, although financially stretched and strained, remain committed to providing constructive services for conflicts in all their traditional, economically escalated, and novel manifestations.

Specific examples of centers’ knack for manufacturing drink from even the bitterest of economic lemons could be found in the areas of volunteerism and case volumes. Eighty percent of centers reported either a maintenance or increase in the number of active volunteer mediators. Nearly a quarter of centers reported volunteers’ availability as actually having increased as a result of the economic downturn. Unemployment or the newly underemployed status of many volunteers created the opportunity for centers to increase capacity while offering mediators the ability to maintain professional fitness.

This increased volunteer mediator availability has helped centers service an expanding portfolio and volume of cases. Over half of responding leaders noted either a moderate or major increase in their centers’ intake, with major increases reported in the aforementioned marital/family and housing contexts. At the same time, 71 percent reported no particular case type subsequently decreased to offset the new increased demand.

Faced with sustainability uncertainties, centers reported considering a range of strategies in response to the economic crisis. Transference of services to outside organizations, joint ventures, staff sharing arrangements, adopted subsidiary statuses, mergers, and dissolutions were among the reported considerations alongside the harmonic chorus of “cost reductions.” Joint ventures were most popular amongst participants, collecting almost 60 percent of centers’ responses. Mergers and staff sharing arrangements rounded out the reported court of *contretemps* with nearly 30 percent of centers considering such measures, combined.

Overall, the March 2009 survey of the economic impact on community mediation centers revealed an austere state of affairs studded with narrow, waxing possibility. Eighty percent of participants, who represented broad geographic and center demographic diversities, reported the economic crisis as having either a moderate or major negative impact on their center overall. The negative impact on at least some measures of centers’ budgets and staffing had been severe. Morale and center resources declined notably, even before the depths of the recent recession’s recesses had been fully plumbed. Executive directors—both those familiar with these persistent operational protagonists

and the newly crestfallen from the economic perfect storm—entertained contraction or closure measures as part of their regrettable response.

Historically considered, the states of operational and financial marginality are notable for not only their practical implications, but also their endurance within the field. Community mediation's current state of affairs has been charted before. Economic declines in the early 1990s resulted in a cautionary report on Massachusetts' programs, noting:

Sampling the pulse of community mediation at the close of 1990, a year of unprecedented fiscal stress, is like reporting on the consequences of a hurricane while it is still in progress. . . . [s]ome programs are closing or terminating services. . . . [t]he capacity of many programs is decreasing. . . . [and] [t]he status of existing programs is precarious.<sup>57</sup>

Later that decade, a national examination of community mediation affairs mirrored similar unnerving findings.

In addition to being too low, program funding also tends to be precarious . . . [m]ajor by-products of current low budgets—overworked staff, limited capacity for outreach and increased referrals, and high staff turnover—would seem to ensure that budgets will stay low at many programs because staff members will not have the time or energy to seek changes.<sup>58</sup>

Now, more than another decade on, we find ourselves yet again cuffed to the whims of market cycles and facing affronts to our vitality. While there exist inspiring anecdotes of specific centers or programmatic areas successfully realizing the promise of community mediation through charitable, institutional, or market support, the field largely continues to subsist on paltry resources midway through our pearl anniversary.

Nevertheless, optimism and a fiery surety in our compelling movement—if not financial abundance—help to keep community mediation practitioners, advocates, and the broader field afloat. Of practical promise during the latest economic hardships were reported areas of increased demand—caseload serviceability notwithstanding—and unwavering volunteer commitment. Further promise, albeit veiled, may also be found in centers' reported efforts to jettison ancillary programming developed during heartier times. The ability to refocus on core operations and adapt to current conflict trends may help keep centers not only solvent, but also increasingly marketable amidst stiffened competition and gaunt funders. Imbued with creativity, professionalism, and a principled resolve to continue our field's critical programming, community mediation centers will undoubtedly transform the slivers of opportunity generated from today's economic crisis into the gates through which we will welcome tomorrow's awaiting economic renewal.

---

<sup>57</sup> MASS. DIST. COURT DEP'T MEDIATION PROGRAM, COMMUNITY MEDIATION AT THE CROSSROADS: A REPORT ON THE STATUS OF COMMUNITY MEDIATION AT THE CLOSE OF 1990, at 1, 4 (1991).

<sup>58</sup> MCGILLIS, *supra* note 9, at 87-88.

*B. In the Trenches: Sustainability Measures (Surveys #2 and #3, April 2009 and April 2010)*

The sustainability survey, administered in both April of 2009 and April of 2010, was designed based on similar studies in the field of nonprofit innovation and sustainability.<sup>59</sup> The study's intent was to garner a more comprehensive, nuanced look at community mediation centers' approaches to keeping their organizations afloat. It has been argued in nonprofit literature that innovation is defined by measurable changes in structure and policy occurring both internally and externally to the organization.<sup>60</sup> When evaluating sustainability techniques, this internal/external lens can also be applied. Internal organizational strategies can take the form of personnel or board restructuring, policy changes, and new communication infrastructures, while external organizational innovations involve changes in the relationships between the organization and its clients, competitors, suppliers, and other stakeholders.<sup>61</sup> These internal and external strategies, centered on the idea of enhancing organizational capacity building,<sup>62</sup> are the most commonly identified techniques employed by nonprofits in order to remain sustainable in market economies. Using this framework, survey questions administered to NAFCM members and related listservs were designed to elicit feedback not only about centers' economic positioning and related service demand (relative to the March 2009 study), but also to thoroughly explore centers' uses of both internal and external sustainability strategies.

*April 2009 data set statistics.* In April of 2009, 141 study participants who identified themselves as executive directors, program coordinators, or board members of nonprofit community mediation centers participated in the online survey. Of the respondents, 72 percent reported having served their organization during a previous major financial crisis. In terms of organizational budget, 28 percent of the respondents reported working with annual budgets of less than \$100,000, 47 percent reported working with an annual budget between \$100,000 and \$500,000, and 25 percent reported budgets larger than \$500,000 (with 12 percent in the \$1 to \$5 million range). All reporting organizations identified their primary target populations as low-income families and/or individuals in conflict.

*April 2010 data set statistics.* In April of 2010, eighty-seven community mediation leaders participated in the same online survey. Most (90 percent) of the respondents reported having served with their organization during a previous major financial crisis. In terms of organizational budget, 19 percent of the April 2010 respondents reported working with annual budgets of less than \$100,000, 63 percent reported working with an annual budget between \$100,000 and \$500,000, and 18 percent reported budgets larger than \$500,000

---

<sup>59</sup> See generally De Vita et al., *supra* note 50; Robert E. McDonald, *An Investigation of Innovation in Nonprofit Organizations: The Role of Organizational Mission*, 36 *NONPROFIT & VOLUNTARY SECTOR* Q. 256 (2007); *Four Core Capacities*, CCAT, <http://www.tcccct.com> (last visited Feb. 19, 2011).

<sup>60</sup> Perri 6, *Innovation by Nonprofit Organizations: Policy and Research Issues*, 3 *NONPROFIT MGMT. & LEADERSHIP* 397, 400 (1993).

<sup>61</sup> See De Vita et al., *supra* note 50, at 11.

<sup>62</sup> *Id.*

(with 10 percent in the \$1 to \$5 million range). In contrast to the April 2009 data set, all of the reporting organizations identified their scope of service as being primarily local, rather than regional, though they also all reported serving primarily low-income families and/or individuals in conflict.

Interestingly, independent observations of the April 2009 and April 2010 data sets did not reveal marked differences in answers to questions of sustainability techniques or efficacy. This homogeneity in responses may indicate sustainability measures were still in the process of being implemented one year out and had not yet resulted in measurable alterations in efficacy at the time the follow-up survey was administered in 2010. With this consideration in mind, the results of the data sets were merged for reporting purposes. Combined, the data revealed valuable information not only about the economic positioning and service demand of community mediation centers during 2009 and the first quarter of 2010, but it also revealed trends in centers' application of sustainability techniques and their resulting efficacy.

### *1. Economic Positioning and Service Demand*

Nearly two-thirds of participating community mediation leaders reported both that their organization was negatively impacted by the economic downturn during 2009 and 2010, and that their organization was poorly positioned for sustainability in the coming fiscal year. One research participant even stated "there is a possibility that we will go completely out of business within the next three months due to the economy." Twenty-two percent of centers' leadership reported being nervous as they waited to see what the following six to twelve months revealed. One common anxiety centered around resource allocation, as expressed by one participant: "the effort needed to raise funds reduces the time available to provide the service."

Only 12 percent of the reporting centers found their organization well positioned and financially healthy for the future. One particularly well positioned respondent reported this positive outlook owed much of its existence to social ventures, stating: "my agency does not receive any federal/state funding, so we have not been impacted by government cuts. However, donations from individuals/foundations have decreased as compared to last year. The agency has a social venture project and program fees; both are contributing to the agency's revenue."

*Demand for Service.* Seven percent of research participants reported decreased demand for their organizations' services due to the economic crisis. Two-thirds of respondents reported a moderate to significant increase in demand for services, only a third of whom, however, reported their organizations were adequately situated to meet such an increased demand. Reasons cited for centers' decreased capacity were funding cuts (54 percent), lack of an adequate staff or management team (20 percent), lack of volunteers (16 percent), lack of physical space to accommodate (7 percent), and increased costs of service provision (3 percent).

Participants' own analysis of diminished capacity painted a grim picture for the future. According to one respondent, "We had to cut capacity due to government cuts and decreased giving. We want to help everyone, but we also know we need to remain fiscally responsible. We want to stay afloat."

Another respondent divulged, “Our budget has continued to decrease and we do not have the capacity to serve all those who come to us for services. We may have to close our doors.”

## 2. *Sustainability Measures*

All research participants were asked to identify any innovative capacity building measures their organizations were currently utilizing to remain sustainable.<sup>63</sup> A menu of both internal and external techniques was identified as possible options. The ten most frequently cited measures were:

1. Careful financial controls and budget allocations (86%)
2. Increased or improved fundraising activities (71%)
3. Increased board and volunteer involvement (64%)
4. Developing new programming (57%)
5. Creative strategic planning (57%)
6. Social entrepreneurial ventures<sup>64</sup> (57%)
7. Combining operations with another organization (49%)
8. Increased marketing (43%)
9. Cutting programming (29%)
10. Increased professional development (29%)

After identifying the range of sustainability measures centers had begun implementing, participants also evaluated the efficacy of those measures.

### a. *Most Frequently Reported Ineffective Sustainability Measures*

*Increased or improved fundraising activities.* The rationale as to why this internal strategy was not effective was very simple for most respondents—in times of economic crisis most corners of society are negatively affected, including centers’ traditional funding sources. This particular economic crisis seemed even to affect some centers’ most reliable sources of foundational, institutional, and appropriated funding. One research participant succinctly stated: “Grant exploration has resulted zero benefits,” while another reported: “additional development work has only wasted valuable time with little reward for our efforts.”

*Increased marketing.* This internal method seemed to lack efficacy primarily because community mediation centers reported the expenditure of resources for marketing outpaced their benefit. As one participant commented, “the marketing project we undertook is dragging on and taking time and not producing.” In heartier economic times, such marketing would be an appropriate investment to achieve broader goals of public awareness and branding. Given the current razor thin margins at many centers, however, this investment appeared to net too few benefits in the near-term to justify the resource expenditures.

---

<sup>63</sup> For more information about capacity building and nonprofit organization, see McPhee & Bare, *supra* note 50, at 1-4.

<sup>64</sup> Social entrepreneurship, broadly speaking, is a hybridization of traditional private and nonprofit sector goals. This sectoral merging “combines the passion of a social mission with an image of business-like discipline, innovation, and determination.” J. GREGORY DEES, THE MEANING OF “SOCIAL ENTREPRENEURSHIP” 1 (2001), [http://caseatduke.org/documents/dees\\_sedef.pdf](http://caseatduke.org/documents/dees_sedef.pdf).

*Increased professional development.* This internal method was not effective for respondents because the amount of time and resources organizations can allocate toward staff training and development is often too little to result in significant, immediate organizational impact. Costly attendance at annual conferences—one example of professional development whisking leadership far from their center's operations—tend to be replete with conceptual challenges, professional networking, and strategic considerations. These events, however, may produce little in terms of expedient operational efficiencies or enhancements to the financial bottom-line. As one leader commented: "the amount we budget for [professional development] is too small to be a significant impact engine."

*Developing new programming.* This internal method was commonly cited as one of the least effective, yet most used techniques. Its lack of effectiveness seemed to hinge on the fact that developing new programs when existing programs are in resource turmoil further divides staff's attention, making attainment of any program's specific goals increasingly difficult. One community mediation leader summarized: "It's hard to build a new program with staff that is stretched so thin anyway because of increased case loads."

*Cutting programming.* Many organizations resorted to the internal strategy of closing certain program offerings, only to find that their customers and clientele suffered at unanticipated levels. "We thought that streamlining our services by cutting back on programming would free up our resources for focus on our main projects, but we lost a higher than anticipated amount of our service population as a result of the cuts," said one participant. Such unanticipated losses can result from the hasty decision-making thrust upon center leaders by mounting financial pressures.

It should be noted, however, such experiences with programmatic pruning should not dissuade center leadership from carefully examining their portfolios in search for outdated operations, programmatic cash cows, or dusty jewels long since utilized by the community. This evaluation, done with eyes toward organizational strategic objectives and stakeholder impact should help minimize unanticipated negative consequences. By identifying such programmatic and operational inefficiencies or deadweight, centers can help free up much-needed resources to reinvest in comparatively fecund programs or, for some centers, help meet next month's expenditures.

#### *b. Most Frequently Reported Effective Sustainability Measures*

*Increased or improved fundraising activities.* It is immediately noteworthy that this strategy was identified by research participants as simultaneously the overall *least* effective and *most* effective sustainability technique. To explore this phenomenon further, data is carefully reviewed to establish the characteristics of those organizations that reported both success and failure with the "fundraising" technique. Unsurprisingly, those organizations that reported high success with fundraising were almost entirely those that operated with an annual budget larger than \$500,000, had a well-established history within their communities, and had staffs larger than six full-time employees. When looking at the commentary provided by centers that found fundraising efforts to be less effective, their lack of assets, such as time and personnel, appeared to be the



main cause of their negative experiences with this technique. The case could be made that larger organizations, which likely already experience a relative economic advantage in comparison with their smaller center brethren, found it easier to allocate existing resources toward the pursuit of additional grants, philanthropic donations, and sponsorships, thereby making their activities comparatively more rewarding.

*Combining operations with another organization.* This external strategy focuses primarily on building organizational strength through resource sharing. Comments from respondents reflect the popularity of this choice, particularly among smaller nonprofits with annual budgets of less than \$100,000. One participant raved: “combining payroll and other services with another nonprofit has saved significant funds!” Another respondent was pleased to report: “combined advocacy across the state has helped keep funding cuts to a minimum.” These realizations in economies of scale help discount the amount of resources necessary to achieve the same outcome.

*Careful financial controls and budget allocations.* When faced with budget cuts, many respondents found careful examination of this internal strategy yielded opportunities for both creativity and measured, strategic risk taking. For example, one center leader reported: “In 2009, we managed to work within budget through cuts; in 2010, the Board and staff jointly made the decision to intentionally operate a deficit budget for the year.” Another touted the creativity of cutting corners: “I have been extremely careful with budget items and am saving money at all possible avenues . . . i.e. store brand foods for our classes rather than name brands.” Holding fast to a precariously balanced budget, nimbly adjusting to changing realities, or strategically deciding to draw down reserves—as luxurious as such decisions may appear for many centers—all require fiscal constraint, responsiveness, and responsibility; characteristics routinely displayed by dedicated center leadership.

*Social entrepreneurial ventures.* This external technique proved to be very successful, particularly for the larger nonprofits operating annual budgets larger than \$500,000. As one participant reported: “Our social venture has provided unrestricted financial revenue for our agency, while offering a job-training program for our agency’s targeted population.” There were mixed reviews, however, as to the long-term benefits of social ventures. One center quipped: “Too much valuable time has been wasted ‘getting the new people up to speed’ and some people never seem to catch on.” Several participating center leaders were quick to add that social entrepreneurial ventures were not ideal and were being utilized only temporarily until more stable sources of income could be put into place.

*Increased board and volunteer involvement.* This internal strategy had mixed reviews. Some believed more board involvement put “too many hands in the pot,” or fostered “more voices with less action.” The majority of organizations, however, reported reaping the benefits of adopting working boards and increasing their use of volunteers. One participant commented that his board “really stepped up and was instrumental [in] decision making and crisis management.” Another touted the oft-promoted benefits of recruiting graduate student volunteers, noting the relationship was “mutually beneficial—we got skilled volunteers and they got work experience.”

## V. DISCUSSION

This research indicates many community mediation centers nationwide tend to focus primarily on internal measures of sustainability during economic duress. At least in the current economic climate, however, this internal focus further financially constrained many centers throughout 2009 and early 2010 as their focus turned increasingly inward. Concentrating too many resources on *operational* foci to keep the doors open rather than *outcome-oriented* conflict management services muted the primary appeal centers have for donors, grant makers, philanthropists, and institutions. Decreases in case referrals, diversity, processing times, rates of resolution, or other published measures of centers' service focus may result in co-linear declines in supporters' attentiveness or favoritism.

Centers that reported focusing on external methods of capacity building, particularly through social entrepreneurialism, seem to have experienced greater financial stability throughout 2009 and early 2010. This stability allowed their organizations the opportunity to maintain and even enhance programming without threat to their overall sustainability. Interestingly, many research participants minimized the value of external techniques such as social entrepreneurialism, indicating the techniques were only temporary measures until charitable, foundation, and governmental funding became more abundant. It appears counterintuitive and, therefore, worthy of future study to determine why centers would roundly dismiss those external measures actually securing greater sustainability as provisional, regrettable resorts. Indeed, the prevailing sentiment of these measures was that, while promising, they were merely anti-pathetic relief pitchers to centers' star programs and services which currently languish in the dugouts of market favorability and operational efficiency.

This research further reveals that sustainability measures are often most successful when community mediation centers explore and implement a diversified approach of both internal and external sustainability strategies. Sustainability, at least in times of economic crisis, is achieved by means of a considered mix of strategies rather than a hopeful reliance on a single, often uncorrected, course. Securing financial stability through such prescription allows community mediation centers to conserve their mission rather than yawning the organization toward funders', ventures', or the marketplace's siren calls.

## VI. RECOMMENDATIONS

Community mediation centers are weathering possibly the most challenging iteration of what has become a cyclical affront to their sustainability. These centers, serving as the nation's constructive, structured, and professionalized mechanism through which the conceptual benefits of community mediation are realized, again confront economic challenges detracting their attention from a mission-oriented community focus and toward an operational defensiveness at ever increasing acuity and regularity. This shift from a 'community' to 'continuity' concentration results in decreasing local impact, responsiveness, and overall relevance as the hastening whirl of expending resources in pursuit of

resources further stresses staff, strains optimism, and distances centers from actualizing their principled objectives.

This shift reflects neither the desire nor intent of the field's dedicated professionals. Rather, it highlights a historical reality of the field's precarious parabolic coupling with larger economic booms and busts. For while it is a cyclical certainty this current economic downturn will meet its sister's rise, the nation's network of community mediation centers will have suffered lasting injuries from the field's contraction and distractions.

Decoupling the field from this subjugation, thereby hastening our current ascension and shoaling future crevasses, requires operational measures practical within current limited resource realities. The following recommendations proffer several such measures. Some focus on individual centers' activities, while others require the collaborative efforts of broader state and national actors. Many of these recommendations have been previously suggested in times of both economic certainty and distress—a testament to their foundational importance to the field. New insights gleaned from current research are incorporated where applicable to further enhance their practical benefit. All recommendations should be considered, chosen, and implemented in light of the realities within which individual centers currently operate.

*Fundraise smartly.* Beyond the frustratingly vacuous, echoed mantra of “fundraise, fundraise, fundraise” peppering nonprofit trade publications and collegial listservs, centers in today's climate are compelled to fundraise ever smartly. Casting broad nets in hopes of an increasingly meager catch needlessly excise limited fundraising budgets and personnel resources. Of lasting significance, indiscriminate development risks creating a perception amongst local funders—who are often well acquainted and liberally share grantee assessments—that your center is desperately unsustainable, relationally undiscerning, or fundably forgettable. Instead of using broad nets, it behooves centers to respond to *targeted* requests for which the community mediation expertise would be most aptly qualified. These opportunities may appear as a foundation's delineated priorities, but more commonly covertly lie as specialty subsets for which a community mediation center could co-apply with another well-positioned primary applicant.

Centers are also encouraged to personalize their relationships with current and previous supporters. As nonprofits struggle to maintain visibility with funders, community mediation centers must invest in the maintenance of proven producible relationships. Instead of waiting until funders are deluged with an onslaught of grant applications come deadline, center leaders should request meetings with foundation staff as soon as requests for proposals or grant guidelines are disseminated. Use these meetings to seek clarification, highlight center accomplishments, and build upon the interpersonal relationship between funder representatives and center staff, board, and volunteers. Additionally, ensure supporters continually receive center updates, reports, event invites, and appreciation. These personal touches will help centers stand out amongst what will continue for some time to be an unruly sea of applicants seeking cherished limited funding.

*Seek specialized professional development.* Professional development was earlier noted as one of the least effective sustainability measures implemented

by survey respondents. This may be a result of the traditional high cost of out-of-town conferences and time-intensive workshops that produce generalized takeaways such designed-for-the-masses trainings tend to provide. If professional development is within your center's current reality, explore opportunities for specialized trainings addressing the specific needs of your organization. State and national community mediation associations often provide such targeted training. For example, NAFCM provides community mediation leaders convenient and affordable webinars designed to improve operations, fundraising skills, and stakeholder relations to name a few. Participating in such targeted events helps maximize value from centers' investments in their staff.

*Enhance public awareness.* Community mediation in some locales is unfortunately still a best-kept secret. Even among the citizenry near some of the field's larger, more resource rich centers, neighbors often quip along the lines "I didn't know such a thing existed!" Such comments are routinely heard at service fairs and guest presentations where community mediation centers make their thousandth debut.

Continued efforts in public awareness will perpetually be a core activity for centers and their associations. During times of economic crisis, threatening economic noises mute even the most clarion of awareness calls. Ironically, these economic distractions generate greater demand for community mediation services at the same time their promotion is less likely to be noticed by potential clients. Enhancing public awareness during such times, therefore, requires a targeted approach to maximize the benefit of a center's likely shrinking marketing resources.

Focusing awareness campaigns in areas of heavier readership and traffic can help reach those in need of community mediation's services. Instead of placements in newspapers' 'Living Sections' or as filler between spliced headlines, consider targeting the readership that first explores the 'Job Openings' and 'Help Wanted' sections of their morning paper. These un-, under-, or at-risk-employed citizens are likely to have mounting personal stressors that negatively affect familial, workplace, and social relationships. Also, centers should consider the benefit of being featured in the well-read opinion columns or letters to the editor. By actively writing letters or suggesting anecdotal pieces for columnists to conveniently paste into their own work, centers can increase their chances of being featured without draining limited advertising budgets. Finally, identify the governmental and nonprofit agencies that have seen the highest increases in service demand as a result of the current economy (e.g. unemployment offices, job placement agencies, foreclosure counselors, credentialed debt relief entities, etc.). These institutions are likely inundated with requests for service, many of which are exacerbated by tertiary conflicts outside the direct influence or remedial competencies offered by the entity of intake.

*Explore economies of scale.* For decades, community mediation centers have toiled tirelessly to identify local need, develop responsive programming, and then administer such programming. Unfortunately, this has often occurred in the form of siloed efforts characterized by an extensive community-level customization that is terribly inefficient to develop. As a result, economies of scale—the efficiency enhancements and relative reductions in production or obtainment costs achieved through expanded or aggregated operations—are

often unrealized. While customization in terms of branding, quantity of resources, and locally idiosyncratic socio-economic-legal environments are critical, these center-specific touches can still be realized through pursuit of economies of scale.

Specifically, as many centers begin to experience increasing demand for services from non-English speaking populations, they undertake an arduous, resource-depleting task of reproducing current forms and promotional materials into different languages. These translations from English to Spanish, Mandarin, Korean, Farsi, Hindi, and many other notes of our language rainbow have all been performed and refined before. Utilizing standardized translated forms—with minor center-specific customizations—can help achieve an economy of scale that allows centers to reach broader populations by decreasing barriers to entry.

Similar economies of scale can be achieved through other means. For example, common office supply purchasing arrangements with other nonprofits; utilization of standardized marketing materials;<sup>65</sup> field-specific operational policies, including employment and volunteer manuals; and even shared intake procedures within areas or even states which have a limited number of smaller, overburdened centers.

*Consider social entrepreneurial ventures.* Many community mediation centers have gravitated toward single-funder arrangements. Whether a product of construction, convenience, or capitulation, such positioning places centers at significant risk of both funder co-optation and the grim prospect of funders' eventual priority shifts. Diversifying funding streams helps mitigate these potential risks and improves organizational sustainability during changes in economic winds, funder priorities, and service demand.

One developing tributary of centers' revenue stream is the earned income derived from social entrepreneurial ventures. These ventures take a variety of forms, but generally capitalize on centers' expertise and/or infrastructure in simultaneously socially advantageous and market-oriented fashions. Social entrepreneurialism may take the form of a community mediation center that contracts with an unemployment or job placement entity to provide personalized conflict management training to those attempting to reenter the marketplace.<sup>66</sup> It may also materialize as centers contracting with foundations to

---

<sup>65</sup> One great example of shared marketing is the "Mediation: It's Your Solution" poster campaign developed by the Maryland Judiciary's Mediation and Conflict Resolution Office (MACRO). This campaign comprises a series of twenty-four posters available in three sizes in both English and Spanish, and covers disputes involving business, community, custody, family, neighbors, school, small claims, and the workplace. Within Maryland, the posters are free, and non-Maryland centers can purchase posters for the cost of printing and shipping only—far below the cost each center would incur if developing a comparable poster series individually. Additional information can be obtained at *MACRO's Poster Ordering Page*, MACRO, <http://www.courts.state.md.us/macro/images/mediationposters.html> (last visited Feb. 19, 2011).

<sup>66</sup> Rooted in the understanding of social entrepreneurship as ventures or programs that generate significant, measurable rates of both social and financial benefit, the example above provides the social benefit of enhanced skill sets for the unemployed, while simultaneously providing financial benefit to the community mediation center in the form of earned income. Additional long-term financial benefits accrue to those currently unemployed who subse-

facilitate workouts of troubled grantor-grantee relationships,<sup>67</sup> or many other iterations which blend social benefit and entrepreneurial revenue generation.

The specific manifestations of social entrepreneurialism should be tailored to an individual center's capacity and its specific community's needs, but are limited only by a center's creativity. Not all social entrepreneurial constructions will work for, or even sit well with, all centers. A center's exploration of such ventures is at worst an exercise in discovering their range of assets and, at best, results in adoption of a novel approach to achieving joint gains for both mission and money.

*Macro-statistics and story collection.* The field of community mediation has been hamstrung by a relatively inaccessible, proprietary patchwork of program statistics and success stories. What works in Chandler, Arizona could provide the statistical and qualitative support needed to win over stakeholders of a proposed dog barking mediation program in Chicago, Illinois. What failed miserably in Indianapolis, Indiana could help leadership in Ithaca, New York avoid costly programmatic design flaws. Learning which programming requires the largest per case investment, or experiences the lowest intake-to-mediation conversion rate could help centers nationwide undergo informed adoptions of and adjustments to their portfolio of services. Absent these shared statistics and stories, however, center leadership is left to reinvent hundreds of esoteric wheels as fellow colleagues spin or sputter about far from sight.

Collaborative identification, collection, and dissemination of certain uniform statistics could help alleviate much of our disjointed approach toward program development, analysis, and promotion. Many centers already collect data on referral sources; case type, duration, and outcome; client demographics and satisfaction; and resolution durability. Aggregating these pieces of anonymized data would be incredibly valuable in identifying trends, establishing smart practices, and endorsing the broad social benefits achieved through community mediation programming.

This collaboration could be achieved at the state level, where state funding requires reporting of specific measures, or at the national level, where the deepest pool of data can be explored and the greatest potential for statistical and consequential interpretations discovered. However this collaboration manifests, state and national actors should be mindful of the diversity of approaches and philosophies toward measuring outcomes, as well as the rigid personnel and financial parameters many centers must consider as new systems are contemplated. Given the field's expertise in collaborative modeling and creative thinking, the promise of uniform statistics and compelling story collection is long overdue.

*Conduct/request accessible research.* Collection of national statistics may gird a renaissance in research on community mediation. Until such statistics confederate, however, community mediation centers are still in need of accessi-

---

quently secure positions in part because of their enhanced skill sets, as well as to taxpayers at large through reduced rates of reliance on unemployment support systems.

<sup>67</sup> Here, the social benefit lies in the continuance of valuable social programming achieved through sustained grantor-grantee relationships, while the financial benefit accrues to the center through earned income. Additional financial benefits are secured for the grantee whose funding was sustained.

ble research detailing smart practices and communal consequences that underpin and result from their activities. Timely, practitioner-oriented research helps the field learn from its practices and more fully reach its potential. It also keeps the broader field relevant amongst those stakeholders who consume the latest research to inform legislation, shape policy, and allocate funds. And while such stakeholders weight heady academic and legal annals, they also appreciatively consume the lucid reporting of more tone collegiate-level school and department reports and white papers. Capitalizing upon this pragmatic latter level, those in center leadership positions may entreat a programmatic analysis, survey of stakeholders, or quantification of outcome as part of a graduate-level, semester-long, or capstone project. As pertinent research is published, centers would be well advised to explore findings, consider recommendations, and encourage subsequent study, while also sharing the work roundly with stakeholders and colleagues.

## VII. CONCLUSIONS

Community mediation of, by and for the people will, indeed, long endure.<sup>68</sup> In what form, and as a result of which cocktail of saving measures is currently obfuscated by the whirl of economic factors buffeting and re-contouring the field. Larger centers are experiencing some of the most consequential alterations since the field formalized. Smaller centers—those whose doors remain unshuttered—face critical day-to-day decisions of survivability, let alone those of long-term sustainability. Despite these challenges, the field will undoubtedly right itself by the informed efforts of its dedicated professionals and marshal peacefully onward. And as the maelstrom subsides and optimism alongside opportunity greens, community mediation will phoenix from these recent economic ashes as vibrant and relevant as it has ever been.

---

<sup>68</sup> Here, two engaged authors assert a confident response to Hedeem's provocative, timely questions about field sustainability. Hedeem, *supra* note 4, at 276.