

## Caroline Harmon-Darrow, MSW, LMSW

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### EDUCATION

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Ph.D. expected 5/20/21

**University of Maryland, Baltimore**

School of Social Work

- Dissertation: “Comparing the impact of community-based mediation vs. prosecution on assault recidivism among adults”
- Co-chairs: Dr. Charlotte Bright and Dr. Tanya Sharpe
- Additional outside coursework: Mixed Methods Research, University of Michigan School of Social Work; Propensity Score Matching, Columbia University; Reactions to Violence, University of Maryland College Park, Criminology and Criminal Justice Department.

M.S.W., 5/02

**University of Maryland, Baltimore**

Management & Community Organizing

B.A., 5/97

**University of California, Berkeley**

Double major in English and Social Welfare

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### FELLOWSHIPS & AWARDS

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Dissertation Fellowship

**University of Maryland Baltimore School of Social Work Ph.D. Program**

10/18 – present

- Co-chairs: Dr. Charlotte Bright and Dr. Tanya Sharpe
- \$4000 toward dissertation study: “Comparing the impact of community-based mediation vs. prosecution on violence reduction among non-intimate adults”

Research Assistantship

**National Institute of Justice, Washington, D.C.**

7/16 – 6/17

- Supervisor: Dr. Bethany Backes
- Co-authored a systematic literature review on operational definitions of poly-victimization.
- Edited report on the state of U. S. victim services
- Conducted an audit to improve use of Violence and Victimization sections of NIJ website

Doctoral Scholars Institute  
**Network on Social Work Management**  
Summer 2018

- Mentors: Dr. Allison Zippay, Rutgers University School of Social Work; Dr. Michael Austin, University of California Berkeley, School of Social Welfare; and Dr. Peter Chernack, Adelphi University School of Social Work

First Place, Poster Competition  
**Maryland Public Health Association**

- “Conflict resolution interventions and violence prevention among non-intimates: A modified systematic review”
- Johns Hopkins Bloomberg School of Public Health, \$200 award

Second Place, Oral Presentation  
**GRAD conference**

- “Retaining volunteer mediators: Comparing predictors of burnout”
- University of Maryland College Park, \$350 award

Travel Award  
**University of Maryland Baltimore Graduate Student Association**

- \$300 for Professional Development to attend the Association for Conflict Resolution annual conference in Pittsburgh, PA.

Scholarships  
**University of Maryland Baltimore School of Social Work PhD Program**

- \$250 to attend Early Career Scholars Teaching Institute at CSWE
- \$1100 to attend Mixed Methods Institute at University of Michigan

Scholarship  
**Columbia University**

- \$225 to attend Propensity Score Matching course

Travel Awards  
**University of Maryland Baltimore School of Social Work PhD Program**

- \$500 to present at Council on Social Work Education
- \$600 to present at Society for Social Work Research

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**RESEARCH EXPERIENCE**

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Graduate Research Assistant  
**Maryland Human Trafficking Victims’ Initiative** (DOJ OVC: \$2,500,000)  
**Child Sex Trafficking Victims’ Initiative** (HHS ACF Children’s Bureau: \$1,250,000)  
**Personal Responsibility and Education** (Baltimore City Health Dept, \$325,000)  
9/17 – 8/19 & 7/20 – present

- PI: Dr. Nadine Finigan-Carr

- Conducted evaluation research for two large anti-trafficking initiatives with multiple local, state and federal partners.
- Trained Maryland child welfare workers on human trafficking policy and best practices for working with survivors.
- Assisted with Annual Maryland Child Trafficking Conference, focused on educating service providers and members of the public about human trafficking risk factors, prevention, policy, and services.
- Conducted primary data collection with youth in out of home care on sexual and reproductive health knowledge and experience, as part of an evaluation of a training intervention.

#### Qualitative Research Consultant

##### **Friends Research Institute**

1/20 – 7/20

- Mentors: Dr. Shannon Gwin Mitchell & Dr. Robert Schwartz
- Developing codes, coding, analyzing themes, and writing about interviews of Baltimoreans with opioid use disorder who began a treatment program Baltimore City Detention Center, regarding their experiences with treatment and a patient navigator intervention post-release.
- Funded by the National Institute on Drug Abuse (NIDA) of the National Institutes of Health (U01DA013636)

#### Graduate Research Assistant

##### **University of Maryland Baltimore School of Social Work Field Office**

9/19 – 6/20

- Mentor: Dr. Samuel Little, Associate Dean for Field Education
- Assisted with editing a proposed book on modern field work
- Assisted with coordinating an annual report on field office data, similar to the CSWE annual report on field education

#### Graduate Research Assistant

##### **National Institute of Justice, Violence & Victimization section**

7/16-6/17

- Supervisor: Dr. Bethany Backes
- Co-authored journal article on operational definitions of poly-victimization
- Edited report on the state of U. S. victim services
- Conducted a website audit to improve use of Violence and Victimization sections of NIJ website

#### Graduate Research Assistant

**Drug and HIV Risk among Latino Immigrant Day Laborers** (NIDA: \$109,369)

**Organization, Health and Latino Workers** (CDC: \$1.424.045)

**The Social Service Needs of Latino Immigrant Day Laborers in Baltimore** (NIDA: \$10,000)

9/15-6/16

- PI: Dr. Nalini Negi

- Interviewed social service providers in Baltimore's Latinx community, and assisted with data analysis, writing, and dissemination of findings to policymakers
- Co-authored journal article on depression among latinx immigrant horse farm workers

Researcher

**Bay Area Social Services Consortium**

1/97 – 5/97

- PI: Dr. Michael Austin
- Did literature searches, performed phone interviews for research projects on Santa Clara County foster care and long-term AFDC recipients in San Mateo County
- Assisted with arrangement of focus groups, editing reports, interpreting and coding data, and creating website.

Director of Research & Training

**Center for Poverty Solutions**

11/98 – 10/00

- Coordinated & authored two-year qualitative research study on the impact of welfare reform in Maryland on food security and homelessness
- Conducted two annual surveys of trends in emergency service usage across the state of Maryland.
- Applied for and administered two \$52,000 HUD technical assistance grants.
- Coordinated all aspects of two annual conferences, which offered over 55 workshops by 80 trainers to 420 emergency service providers and advocates statewide.
- Oversaw Resource Library for service providers, staff and people in need (created a new call number system, made collection accessible online and oversaw cataloging, outreach, customer service).
- Supervised Research Specialist, Librarian, Resource Manual Editor, and interns.
- Organized 300 volunteers for annual Opportunity Fair (a one-stop event for 3500 homeless and low-income people.)

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**PUBLICATIONS**

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*Peer Reviewed Journal Articles*

**Harmon-Darrow, C. & Charkoudian, L. (2021).** Mediator approach and mediator behavior: A secondary data analysis of day of trial and child access mediation in Maryland. *Conflict Resolution Quarterly*.

**Harmon-Darrow, C. (2020).** Conflict resolution interventions and tertiary violence prevention among urban non-intimate adults: A modified systematic review. *Trauma Violence & Abuse*.

**Harmon-Darrow, C.**, Charkoudian, L., Ford, T., Ennis, M., & Bridgeford, E. (2020). Defining Inclusive mediation: Theory, practice, and research. *Conflict Resolution Quarterly*.

Mitchell, S. G., **Harmon-Darrow, C.**, Lertch, E., Monico, L. B., Kelly, S., Sorenson, J. L., Schwartz, R., & Jaffe, J. H. (2021). Views of barriers and facilitators to continuing methadone treatment upon release from jail among people receiving patient navigation services. *Journal of Substance Abuse Treatment*.

**Harmon-Darrow, C.**, Burruss, K., & Finigan-Carr, N. (2019). “We are kind of their parents”: Child welfare workers’ perspective on sexuality education for foster youth. *Children and Youth Services Review*, 108: 104565.

Negi, N., Swanberg, J., Clouser, J., **Harmon-Darrow, C.** (2019). Working under conditions of social vulnerability: Depression among Latino immigrant horse workers. *Cultural Diversity and Ethnic Minority Psychology*, 25(2).

Xu, Y., **Harmon-Darrow, C.**, & Frey, J. J. (2018). Rethinking professional quality of life for social workers: Inclusion of ecological self-care barriers. *Journal of Human Behavior in the Social Environment*, 29(1), 11-25.

**Harmon-Darrow, C.** & Xu, Y. (2018). Retaining volunteer mediators: Comparing predictors of burnout. *Conflict Resolution Quarterly* 35, 367–381.

### *Under review*

Ogle, C., **Harmon-Darrow, C.**, Backes, B., Mulford, C. (Under Review). Operational definitions of poly-victimization: A review of the literature.

Little, S. B., Loessner, L., & **Harmon-Darrow, C.** (Under Review). Social work field education during COVID-19: Lessons learned so far.

Charkoudian, L., Walters, J., **Harmon-Darrow, C.**, & Bernstein, J. (Under review). Mediation in criminal misdemeanor cases.

Finigan-Carr, N. & **Harmon-Darrow, C.** (Under Review). Field Placements serving survivors of trafficking, torture, trauma and abuse. Target: Book chapter for Little, S. B., Loessner, L., & Ofonedu, M., eds., *Social Work Field Instruction in Modern Practice: A Handbook*

**Harmon-Darrow, C.**, Jun, H. & Bright, C. L. (Under Review). Neighborhood gentrification and disruption’s association with police violence and negative police attention.

### *In Development*

**Harmon-Darrow, C.** (In Development). Community-Based Mediation Evaluations: A measurement study using exploratory and confirmatory factor analysis. Target: *Journal of the Society for Social Work Research*.

**Harmon-Darrow, C.,** Finigan-Carr, N., Henry, S., & Burruss, K. (In Development). Child welfare workers' knowledge & self-efficacy about engaging survivors of child sex trafficking.

### *Articles and Book Chapters*

Healthy Teen Network. (2018). Position statement: Homelessness and its intersection with sexual behavior among youth. Baltimore: Author. Retrieved 9/27/18: [www.healthyteennetwork.org/resources/position-statement-homelessness-intersection-sexual-behavior/](http://www.healthyteennetwork.org/resources/position-statement-homelessness-intersection-sexual-behavior/).

Menzer, A. & **Harmon, C.** (2004). The Baltimore Transit Riders League. In *Highway Robbery: Transportation Racism & New Routes to Equity*, Bullard, R. D., Johnson, G. S., & Torres, A. O., eds. Boston, MA: South End Press.

**Harmon, C.** (2000). Urban Implications of the Growth of Gay and Lesbian Populations in Suburbs. *Next American City*. <http://thisbigcity.net/urban-implications-growth-gay-lesbian-populations-suburbs/>

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## PRESENTATIONS

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### **Peer-Reviewed Academic Presentations**

**Harmon-Darrow, C.,** Finigan-Carr, N., Henry, S., & Burruss, K. (November 19, 2020). Child welfare workers' knowledge & self-efficacy about engaging survivors of child sex trafficking. Poster presented at the Council on Social Work Education Annual Public Meeting, Online.

Hyde, C., Thurber, A., Matthew, R., & **Harmon-Darrow, C.** (January 20, 2019). *Identifying a framework for trauma informed community practice by building on community research*. Roundtable presented at the Society for Social Work Research Conference, San Francisco, CA.

**Harmon-Darrow, C.** (January 17, 2019). *Conflict resolution interventions and violence prevention among non-intimates: A modified systematic review*. Poster presented at the Society for Social Work Research Conference, San Francisco, CA.

- Harmon-Darrow, C.** Ogle, C., Backes, B., Mulford, C. (November 14, 2018). *Operational definitions of poly-victimization: A review of the literature*. Paper presented at the American Society of Criminology Annual Meeting, Atlanta, GA.
- Harmon-Darrow, C.** (November 8, 2018). *Conflict resolution interventions and violence prevention among non-intimates: A modified systematic review*. Poster presented at the Council on Social Work Education Annual Conference, Orlando, FL.
- Harmon-Darrow, C.** (October 6, 2018). *Comparing the impact of community-based mediation vs. prosecution on tertiary violence prevention among non-intimate adults*. Presentation of Dissertation Proposal to the American Association of Law Schools, 12th Annual Works in Progress Conference, Baltimore, MD.
- Harmon-Darrow, C.** (June 13, 2018). *Comparing the impact of community-based mediation vs. prosecution on tertiary violence prevention among non-intimate adults*. Presentation of Dissertation Proposal at the Network on Social Work Management Doctoral Scholars Institute, San Diego, CA.
- Harmon-Darrow, C.** (March 15, 2018). *Community-Based Mediation Evaluations: A measurement study using exploratory and confirmatory factor analysis*. Paper presented at the University of Maryland Baltimore Graduate Research Conference. Second Place.
- Xu, Y., & **Harmon-Darrow, C.** (January 14, 2018). *Rethinking Professional Quality of Life for Social Workers: Inclusion of Ecological Self-care Barriers*. Paper presented at the Society for Social Work Research Conference, Washington, D.C.
- Harmon-Darrow, C.** (April 5, 2017). *Retaining volunteer mediators: Comparing predictors of burnout*. Paper presented at the University of Maryland College Park GRAD Conference, College Park, MD. Second Place.
- Harmon-Darrow, C.** (March 13, 2017) *Retaining volunteer mediators: Comparing predictors of burnout*. Poster presented at the University of Maryland Baltimore Graduate Research Conference, Baltimore, MD
- Harmon, C.** (October 15, 2011). *Performance-Based Evaluation of Mediators: A Case Study*. Association for Conflict Resolution Annual Conference, San Diego, CA.
- Harmon, C.** & Ennis-Benn, M. (October 14, 2011). *Prisoner Re-Entry Mediation*. Association for Conflict Resolution Annual Conference, San Diego, CA.

Bulman, K., Cutrona, C., & **Harmon, C.** (October 12, 2011). *Surviving and Thriving in these tough economic times*. Association for Conflict Resolution Annual Conference, San Diego, CA.

**Harmon, C.** (June 10, 2000). *Selfhood and national identity in Virginia Woolf's The Waves*. 10<sup>th</sup> Annual International Conference on Virginia Woolf, University of Maryland, Baltimore County.

### **Invited Presentations and Practitioner Training**

Basic Mediator Training. Most recently 10/12/18, Carroll County Community Mediation Center, Westminster, Maryland. Fifty-hour course in basic mediation skills, which meets and exceeds Maryland Rule 17-104 governing mediator training and education, following the Inclusive model of mediation.

Advanced Mediator Training: School Attendance Mediation. Most recently 3/21/21, Community Mediation Maryland, Takoma Park, Maryland. A twenty-hour advanced mediator training in facilitating problem-solving sessions between school staff, parents and students to address school attendance problems and truancy.

Mediator In-service: Harnessing Intense Conflict Energy. Most recently 2/16/21, College of Southern Maryland, La Plata, Maryland. Four-hour in-service training for mediators on using Inclusive listening to mediate intensely emotional conflicts.

Community Mediation Leadership Academy: Grassroots Fundraising. Most recently 11/8/16, Mid Shore Community Mediation Center, Easton, Maryland.

Engaging Survivors of Child Sex Trafficking. Most recently 10/25/18, Harford County Department of Social Services, Aberdeen, Maryland. An eight-hour training about risk and protective factors for child sex trafficking, as well as skill sin engaging survivors. Prepared as a mandatory training for every for Maryland child welfare worker by the University of Maryland Baltimore School of Social Work Ruth Young Center, Prevention of Adolescent Risks Initiative (PARI) through their Child Sex Trafficking Victims Initiative (CSTVI), and in partnership with the

Partnership Development. Most recently 10/27/14, Community Mediation Maryland, Takoma Park, Maryland. Eight hour training on how to design, develop, sustain, and evaluate partnerships between mediation centers and government and nonprofits entities such as courts, law enforcement, correctional institutions, and houses of worship.



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## TEACHING EXPERIENCE

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Adjunct Professor, University of Maryland Baltimore County

**Social Welfare & Social Policy (SOWK 260)**

Fall 2018

- Bachelor's level course in social policy & social policy history.

Adjunct Professor, University of Maryland, Baltimore

**Practice with Communities and Organizations (SOWK 631)**

Fall 2018

- Master's level course in social policy history, analysis, and advocacy.

Teaching Assistant, University of Maryland, Baltimore

**Mediation Clinic (LAW 533C)**

Fall 2018

- UMB Carey School of Law year-long clinic course in mediation practice, including lectures and co-mediation in Maryland District Court civil small claims day of trial cases.

Adjunct Professor, University of Maryland, Baltimore

**Social Welfare & Social Policy (SOWK 600)**

Spring 2018

- Master's level course in social policy history, analysis, and advocacy.

Teaching Assistant, University of Maryland, Baltimore

**Social Welfare & Social Policy (SOWK 600)**

Fall 2017

- Master's level course in social policy history, analysis, and advocacy. With Dr. Michael Reisch.

Guest Lecture, University of Maryland College Park

**Reactions to Violence (Criminology & Criminal Justice 225)**

Spring 2017

- Guest lecture on community-based violence prevention initiatives, with Dr. Laura Dugan.

Coordinator, University of California, Berkeley

**Expanding Education through Social Action**

8/96 – 5/97

- Led discussions, arranged panels, read and responded to written assignments, planned lessons and activities for a U.C. Berkeley Social Welfare credit course on social activism and community service.

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## SERVICE TO THE SCHOOL & PROFESSION

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Co-Chair

### **Policing Work Group**

### **Smart Decarceration Grand Challenge of Social Work**

5/18-present (co-chair from 9/20)

- Lead qualitative study of police diversion programs, including interviews of program directors across the nation
- Lead systematic literature review about police diversion programs

### **University of Maryland, Baltimore**

Social Work PhD Program

Member

### **PhD Recruitment Committee**

9/15-present

- Worked with fellow students, faculty and staff to increase and diversify recruitment to the UMB SSW PhD program.
- Assisted in creation of a recruitment video and changes to the program website.

Coordinator

### **Writing Accountability Group**

9/16-6/17 & 9/20-5/21

- Facilitated 4-8-member writing accountability group for PhD students and candidates.

Vice Chair

### **Qualitative Interest Group**

1/19-present

- Co-planned and facilitated a monthly student-led group on qualitative methods.
- Assisted in recruiting panelists and planning trainings. Presented data for peer review & debrief.

### **Ad Hoc Reviewer**

- *Violence and Victims*
- *Human Service Organizations*
- *Drug and Alcohol Review*
- *Perspectives on Social Work*

### **University of Maryland, Baltimore**

MSW Program

Chair

### **Lesbian Gay Bisexual Transgender Union**

6/01-5/02

- Arranged panels and trainings on a variety of social work and law-related LGBT issues.
- Raise funds and organized students to fight the referendum against the Antidiscrimination Act of 2001.

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## **COMMUNITY SERVICE**

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Community Mediator

**Baltimore Community Mediation Center**

12/97 – present

- Mediate neighborhood, family, business, criminal court diversion, and custody cases.

Volunteer

**Baltimore Ceasefire**

1/19 – present

- Help promote quarterly citywide ceasefires through community outreach by elementary schoolers in Park Heights
- Conduct conflict resolution exercises with elementary schoolers in preparation for ceasefire weekends

Court Mediator

**Maryland District Court Alternative Dispute Resolution Office**

10/18 – present

- Mediate landlord-tenant disputes on the day of trial in the Baltimore City District Courthouse.

Board President & Founder

**Creative City Public Charter School**

1/10 – 10/14

- Led 9-person Board and 22-family founding group in the design and planning of an arts-integrated public charter elementary school in Park Heights community of Baltimore city, members of which prepared the curriculum, hired the leaders and teachers, enrolled 150 students, and engaged the community and parents through community presentations, door-knocking, advertising, networking, social media, and tabling.
- Coordinated and co-wrote charter application to Baltimore City Public Schools, presenting to the Baltimore City Board of School Commissioners, CEO, and charter school review panel.
- Coordinated and co-wrote Charter School Planning & Implementation application to the US Department of Education, resulting in a \$525,000 start-up grant through a national competition.
- Worked with finance and Facilities committees to raise approximately \$10,000 in individual gifts, \$88,000 in grants, and a building loan of over \$400,000.

Board Secretary

**Gay Lesbian Bisexual Transgender Community Center**

6/01 – 6/03

- Participated in Executive Committee decisions regarding hiring and firing, contracts, and operation of Gay Life newspaper; recorded minutes.
- Wrote four grants for various Center initiatives.
- Assisted with planning of Gay Pride Festival and fundraising events.

Coordinator

**Baltimore Affordable Housing Trust Fund Task Force**

4/02 – 12/03

- Co-convened coalition of housing providers & advocates to push for creation of a Housing Trust Fund for Baltimore City.
- Researched, wrote, and helped present formal proposal to Baltimore City Department of Housing & Community Development.

Hotline Counselor

**House of Ruth**

7/99 – 6/01

- Counseling, information, referral, and intake with survivors of domestic violence in Maryland.

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**POST-MSW PRACTICE EXPERIENCE**

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Acting Executive Director

**Creative City Public Charter School Foundation**

3/15-7/15

- Oversaw day-to-day operations, including facilities management, food service, emergency management, financial management and grants.
- Launched new literacy-based Afterschool Program, thanks to new \$600K grant from Maryland State Department of Education's 21st Century Community Learning Center program.
- Coordinated hiring process for new Principal, Community School Coordinator and Community School VISTA.
- Coordinated recruitment and enrollment of 102 new families for fall 2015 by publicizing successes, hosting open houses, giving tours.

Development Director

**Community Mediation Maryland**

10/09 – 2/15

- Coordinated the School Attendance Mediation Initiative, including raising \$87,500 for the project and training mediators in five Maryland counties, through which families and teachers make plans to improve attendance for students at risk of chronic truancy.

- Assisted Community Mediation Corps members, providing annual training in Partnership Development.
- Worked with Development Committee to raise funds through individual giving, including an annual gala fundraiser. Increased annual giving from just under \$15,000 to \$30,000 annually.
- Prepared annual report and newsletters.
- Worked with inmates to prepare prison yard walk-a-thons to fund prisoner re-entry mediation.
- Managed day-to-day checks and deposits, payroll and monthly bookkeeping, created financial reports for Board, and staffed the annual audit.

#### Consultant

10/08 – 10/09

- Worked collaboratively with mediators and mediation trainers across the state to lead the design of a performance-based evaluation system for community mediators, the first in the nation to be endorsed by the national Association for Conflict Resolution.

#### Vice President, Board of Directors

9/03 – 6/08

- Initiated annual gala fundraiser as chair of Development Committee.
- Assisted in design of Community Mediation Corps, a statewide AmeriCorps program of community mediators.

#### Executive Director

##### **Community Mediation Program, Inc.**

9/03 – 6/08

- Led the strategic direction of the organization, tripling the number of mediations offered to the community annually.
- Supervised, hired and trained all staff, national service members, and interns, moving from 4 to 19 positions, including Community Mediation Corps members, Volunteer Maryland members, and social work interns.
- Increased annual revenue from \$250,000 to \$650,000, by preparing grant applications, maintaining relations with foundations, and planning and executing annual campaign and fundraising events.
- Co-trained CMP volunteer mediators through rigorous 50-hour training curriculum.

#### Organizer

##### **CPHA's Transit Riders League**

6/01 – 9/03

- Analyzed transportation budgets and other legislation, coordinated group selection of legislative agenda, wrote & delivered testimony, Coordinated meetings with Maryland state legislators, US Congresspeople, and Baltimore City Councilpeople, maintained contact with legislative staff.

- Oversaw observations, coded, and analyzed data for 1000-observation “State of the Buses 2003” report on MTA service.
- Organized 200-person Rally for Transit in Annapolis.
- Staffed membership & committee meetings, recruited over 400 new members, doubled active participation.
- Planned and taught trainings on legislative advocacy and leadership skills.
- Wrote grants resulting in \$42,000 in funding from new sources.

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## **OTHER RELEVANT EXPERIENCE**

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### Field Placement

#### **Park Heights Community Benefits District Referendum Project**

8/00-5/01

- Worked with residents to determine if the Park Heights Community would like to become a self-taxing Community Benefits District, representing University of Maryland and Northwest Baltimore Corporation.
- Researched housing and tax data, presented to leaders, campaigned door to door.

### Member Support Coordinator

#### **Action for the Homeless’ HomeCorps Program**

9/97 – 11/98

- Recruited, hired, and supported 13 AmeriCorps members serving in shelters, transitional housing programs and Departments of Social Service across the state.
- Created yearlong training curriculum (on counseling skills, public assistance details, cultural competence, etc).
- Helped maintain partnerships with 13 agencies in which members served.

### Intern

#### **Bethany House, London**

Summer 96

- Researched, prepared and presented a staff training on domestic violence and sensitivity to battered women
- Assisted counselors with case management, advocacy, and counseling at an East End transitional housing program for women and children

### Intern

#### **The Riley Center, Shelter and Services for Battered Women**

6/95 – 5/97

- Performed intake interviews, referrals, advocacy and counseling, both on the crisis line and with the residents
- Facilitated a weekly house meeting
- Provided childcare in the emergency and transitional programs
- Created an extensive resource guide and welcome packet for residents

Intern

**Hon. Angela Alioto, President, San Francisco Bd of Supervisors**

9/94 – 5/95

- Researched the controversial issue of utilities municipalization to inform the supervisor
- Gathered support for Prop. R (youth commission)
- Responded to individual constituent concerns

Birthparent Intake Counselor

**Independent Adoption Center**

6/97-8/97

- Performed intakes with (assessed, provided information and referrals to, advocated for) expectant birthmothers at a national open adoption agency
- Assisted with matches between birthmothers and adoptive couples
- Prepared intake department training manual

Intern

**San Diego County Health Department**

Summer 94

- Shadowed administrators
- Created, administered and analyzed customer satisfaction survey across programs

## Abstract

Although violence continues to damage community and family life, crime reduction victories over the past 30 years have come with the cost of expanding criminalization of human life, especially in communities of color. Solutions that reduce both violence and over-criminalization are urgently needed. Community-based mediation for diversion of misdemeanor assault cases has been practiced around the country since the 1970s, but little is known about its ability to prevent further violence between participants or reduce assault recidivism.

Secondary analysis was conducted with assault cases ( $n = 162$ ) within a Maryland Judiciary dataset from a quasi-experimental longitudinal comparison group study of criminal court mediation recidivism. Bivariate analyses and logistic regression with inverse proportion of treatment weighting were conducted. Semi-structured qualitative phone interviews ( $n = 19$ ) were conducted with mediation participants in three counties of Maryland's Eastern Shore and Baltimore City.

Community-based mediation for misdemeanor assault had a small and statistically non-significant association with return to court at six months, versus usual court processes. Had assaults between couples been excluded, recidivism for mediation cases would have been one third of those treated as usual. For interviewees, the justice system was capable of protection and of worsening the danger and damage, and in mutual cases, respondents wanted to cut ties with it. Mediation could only resolve the conflict if participants were offered: safety; free expression; clarity about the incident; solutions; and active, neutral mediators. Outcomes included no further violence or court charges



between participants, little interaction, and for some: loss of housing and livelihood, emotional closure, or endings that needed to happen.

Mediators, community mediation centers, and local prosecutors' offices could improve screening for intimate partner violence and work together to divert more mediatable cases earlier in the process via police officers and court commissioners.

Future studies of mediation recidivism should consider comparison groups of people who chose to use the service but their fellow participant declined, and mediation evaluations with a dependent variable of self-reported violence would be best suited to understanding community mediation's ability to meet its founding mission of community-created peace.

Comparing the impact of community-based mediation vs. prosecution  
on assault recidivism among adults

by  
Caroline Harmon-Darrow

Dissertation submitted to the Faculty of the Graduate School of the  
University of Maryland, Baltimore in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy  
2021

## **Acknowledgements**

Charlotte Bright, PhD, MSW shared her wisdom, time, guidance, and high standards, as well as grace when I made mistakes. Tanya Sharpe, PhD, MSW gave consistent encouragement and help with qualitative methods and analysis. Lorig Charkoudian, PhD taught me most of what I know about how to practice and research community mediation and let me examine her data after my original study died of COVID. Nadine Finigan-Carr, PhD, MPH demonstrated through three years of supervision how research and practice uplift each other for social change, survey by survey, training by training. Corey Shdaimah, LLM, JD, brought a critical sociolegal and political lens that helped keep my own research and practice values central.

Aimee, Grace & Jacob Harmon-Darrow gave years of inexhaustible love and support during this process and held down the work of family life. Jenny Afkinich, PhD and Rachel Imboden, MSW were kindred spirits, generous with time and support, helping to wrestle with big ideas.

Julia Hammid, Michele Ennis, David Foster, and Nina Arnold recruited interviewees and together with community mediators and mediation center staff Aisha Samples, Samantha Baker-Carr, Michelle Herring, Tracee Ford, Erricka Bridgeford, Erika Sorg, and Sharon Reynolds, gave feedback on the analysis and input into practice and policy recommendations.

Bethany Backes, PhD, MPH, and Angela Moore, PhD, at National Institute of Justice taught me about victimology and measuring violence. Daniel Levine & Bryan Appel gave helpful advice about theory. Rod Rose, PhD and John Cosgrove, PhD at University of Maryland Baltimore School of Social Work gave analytical and software advice. Laura Dugan, PhD, at University of Maryland College Park taught me theories of

violence and nonviolence. Deborah Eisenberg, JD, and Toby Guerin, JD, at the Center for Dispute Resolution at the University of Maryland Francis King Carey School of Law gave early advice, and paired me with valuable mentorship from Donna Shestowsky, PhD, JD, through the American Association of Law Schools' Alternative Dispute Resolution Section's Works in Progress Conference.

Keisha,\* Jasmine, Erika, Jack, Nikia, Trina, Al, Ruby, Henry, Imani, Caleb, Regina, Tanya, Aisha, Jerrica, Lil Bitz, Shirley, Andrew, and Gigi were generous enough to tell me their truth about conflict, violence, mediation, and court, because as the proverb says "it's the one who lives in the house who knows where the roof leaks."

This is dedicated to my father, Steve Harmon, who felt the lack of a PhD stood in the way of his giving all he could to his field of mental health administration, and my maternal grandmother, Mary Wenhe, who was talked out of finishing her PhD program in 1938 "because she was a lady," both of whom, with Alice Harmon and Katherine Younger, made this path possible.

\*pseudonyms, some self-selected

Table of Contents

Chapter 1: The Problem of Violence..... 1

    Violence Typologies by Offender ..... 1

    Interpersonal Violence..... 1

    Significance of the Problem..... 4

    Criminal Justice Response to Violence ..... 6

    Purpose, Goals, and Research Questions..... 9

Chapter 2: Review of the Literature on Community Mediation, Violence, and Their  
    Proxies..... 11

    Violence Prevention ..... 12

    Criminal Court Diversion in General ..... 12

    Conflict Resolution and Restorative Justice Interventions ..... 14

    Studies of Community Mediation and Criminal Justice ..... 18

    Summary of the Evidence..... 27

Chapter 3: Theories of Violence and Nonviolent Change..... 29

    Problem Theories and Theories of Change..... 31

    Nonviolent Social Change..... 32

    Community Justice ..... 41

    Application of Theory..... 43

Chapter 4: Method..... 45

    Purpose, Goals, and Research Questions..... 45

    Design ..... 46

    Sample ..... 49

    Procedure ..... 50

Measures .....	52
Analysis .....	56
Integration and Validation of Findings.....	57
Chapter 5: Results .....	59
Quantitative Findings .....	59
Qualitative Findings .....	73
Mixed Method Integration of Findings.....	126
Chapter 6: Discussion.....	128
Interpretation of Findings .....	131
Strengths and Limitations .....	147
Implications and Recommendations for Practice.....	151
Responding to Theoretical and Policy Critiques.....	156
Implications and Recommendations for Policy .....	161
Implications and Recommendations for Future Research .....	164
Conclusion .....	167
Appendix A: Attitudes Toward Conflict Scale.....	178
Appendix B: Semi-structured Interview Guide .....	179
Appendix C: Interview Notes Form .....	181
Appendix D: Member-checking and Expert Review Summary .....	183
References.....	195

## List of Tables

Table 1. Overview of Research Questions .....	47
Table 2. Summary Statistics for Assault II Cases by Case.....	62
Table 3. Bivariate Analyses of Assault II Cases Receiving Mediation.....	65
Table 4. Bivariate Analyses of Return to Court .....	66
Table 5. Logistic Regression of Return to Court .....	67
Table 6. Descriptive Statistics for Propensity Score Weights Truncation .....	68
Table 7. Logistic Regression Using Inverse Proportion of Treatment Weights .....	69
Table 8. Assault II Cases that Received Mediation and Returned to Court .....	70
Table 9. Recidivism Among All Misdemeanor Cases without Couples with Assault Charges .....	72
Table 10. Summary of Qualitative Interview Cases .....	75
Table 11. Themes and Key Ideas .....	78
Table 12. Mixed Method Findings Integration Matrix.....	127

List of Figures

Figure 1. Concept map of community-based mediation contextualized ..... 11

Figure 2. Theoretical model..... 30

Figure 3. Paths of contributors' court cases..... 81



## List of Abbreviations

AAA	American Arbitration Association
ABA	American Bar Association
ACR	Association for Conflict Resolution
ADR	Alternative Dispute Resolution
BNIA	Baltimore Neighborhood Indicators Alliance
BCSAO	Baltimore City State's Attorney's Office
CHJ	Center for Health and Justice
CTS	Conflict Tactics Scales
FBI	Federal Bureau of Investigation
JRA	Justice Reinvestment Act
IPTW	Inverse Proportion of Treatment Weighting
LLI	Legal Information Institute
NCVS	National Criminal Victimization Survey
OLS	Ordinary Least Squares
WHO	World Health Organization

## **Chapter 1: The Problem of Violence**

Violence is a critical social problem in this and every human age. Violence by all offender types and at all severity levels has far-reaching consequences for individuals, families, and communities. This study will focus attention on prevention of the most common form of violence: lower-severity interpersonal community violence.

### **Violence Typologies by Offender**

The World Health Organization (WHO) calls violence a major public health concern, and outlined three types of violence: collective violence like war and genocide, which claimed 310,000 lives (18.6%); self-directed violence like suicide, which claimed 815,000 lives (49.1%), and interpersonal violence like homicide, which claimed 520,000 lives (31.3%) in 2000. They go on to define two subtypes of interpersonal violence: (1) family and intimate partner violence in the home, and (2) community violence between strangers or those known to each other outside the home (Krug et al., 2002). Within the WHO interpersonal violence typology, the final type, community violence between those known to each other, is the most common in the United States (Morgan & Oudekerk, 2019).

### **Interpersonal Violence**

Although violence is a declining problem on a historic and global scale (see Pinker, 2011), in America's low-income urban centers, rates of interpersonal violence remain high. Rates also vary by type of violence. Baltimore City had a staggering rate of violent crime in 2019 (1880 per 100,000), at five times the national rate (369 per 100,000), and ranked fourth in the nation (Baltimore Neighborhood Indicators Alliance [BNIA], 2021; Federal Bureau of Investigation [FBI], 2019b; FBI, 2019c). In addition,

Baltimore has one of the highest murder rates in 2019 (51.0 per 100,000) at ten times the national rate (5.0 per 100,000), and ranked second in the nation (BNIA, 2021; FBI, 2019b; FBI, 2019c). Therefore, in Baltimore and surrounding counties, preventing the escalation of violence is a critical, life-saving need.

### **Non-stranger Non-family Interpersonal Community Violence**

The United States Department of Justice surveys survivors of violent victimization. Of the 6.39 million violent victimizations in 2018, 1.33 million (21%) were domestic violence (including intimate partner violence, child and elder abuse), and 2.49 million (39%) were acts committed by strangers. This leaves 40% that were committed by known offenders other than an intimate partner or close family member (Morgan & Oudekerk, 2019). This estimate is somewhat lower than previous Bureau of Justice Statistics reports from 1993 and 2005. Non-stranger, non-family interpersonal community violence is therefore the largest type of interpersonal violence in the US, is an understudied area, and is the subject of this dissertation.

### ***Community Violence Victims and Offenders***

Among the most striking criminologic findings of the past few decades is that when it comes to interpersonal community violence, the victims and offenders not only share the same demographics, risk factors, and impacts, but are often the exact same people, in what's known as the victim-offender overlap (Berg, 2012; Gottfredson, 1981; Hindelang, 1976; Jennings, et al., 2012; Lauritsen & Laub, 2007; Lauritsen, Sampson, & Laub, 1991). The overlap has been shown to be large, with one study showing that a one unit increase in offending is related to a 47.5% increase in victimization risk on the Self-Reported Delinquency Scale (Berg & Loeber, 2011). Victims and offenders have shared

risk factors, but controlling for all of them, there is still a strong correlation between victimization and offending (Silver et al., 2011). In a longitudinal study, over half of those victimized more than once also offended more than once (Fagan & Mazzerole, 2011). As with violence in general, the victim-offender overlap is greater in disadvantaged neighborhoods (Berg & Loeber, 2011). Like the community mediation intervention itself as described in chapter two, this dissertation study regards participants as parties to a conflict and/or violence, irrespective of victim-offender status for several reasons, including the philosophy of the intervention as described in chapter 3, as well as an acknowledgement that victimization and offending can overlap substantially.

### **Violence Severity**

Regardless of offender type, severe violence, such as murder, rape, robbery, and aggravated assault, command much more of the research, policy, and practice attention than simple assaults. Yet assault without a weapon, or not resulting in serious injury, is far more prevalent. Of the 6.39 million violent victimizations reported in the National Criminal Victimization Survey (NCVS) in 2016, 4.01 million, or 63%, were simple assault (Morgan & Oudekerk, 2019). Furthermore, the two correspond to one another; a large national multi-city crime study established that murder and non-lethal violence increase in cities at same rates, and at the same times (Browne, et al., 2010). Among NCVS respondents, 42.6% of all violent crime was reported to police, and in cases of simple assault, only 38.4% were reported. That percentage is even lower among urban, female and African American victims (Morgan & Oudekerk, 2019). So it is particularly important that studies of simple assault and its risks or ramifications go beyond the use of crime statistics to look at victimization as well as offending.

Lower-severity cases of assault represent the vast majority of violent incidents nationally, and in Maryland and Baltimore. Second degree assault in Maryland is a misdemeanor crime (Criminal Law § 3-203) (Maryland Code, 2016). In Baltimore, there were 306 murders in 2018 and 5,600 aggravated assaults (BNIA, 2021), with a violent crime rate of 18.8 serious violent crime offenses per 1,000 residents (FBIb, 2021). In that year, the Baltimore Police Department (BNIA, 2021) also reported a rate of 67.3 911 calls for common assault per 1000 residents, and 7,456 incidents of common assault. In the US, about 809,050 arrests were made for assaults other than aggravated assault compared to 396,265 for all serious violent crime (FBI, 2019d). In summary, most violent crime in the United States, and in Baltimore, is between people who know each other but are not family or partners, and most falls under the broad heading of common or simple assault.

### ***Escalation of Violence Severity***

In addition to the general impacts of all violence in individual, family and community life, misdemeanor violence is a significant social problem due to its propensity for escalation to more severe violence, such as aggravated assault and homicide. Escalation of community violence severity is a complex threat, with violence often escalating within a feud over time (Burke, 2006; Piquero, et al., 2006; Wells & Horney, 2002; Wintemute et al., 1998).

### **Significance of the Problem**

Violent victimization has wide ranging impact on individuals, families and communities. In a nationally representative study, 68% of victims of serious violent crime reported emotional distress, problems with work or school, or relationship strain

following victimization (Langton & Truman, 2014). Victims of crime are fearful (Russo & Roccato, 2010; Skogan, 1987), and many develop post-traumatic stress disorder (PTSD; Kilpatrick et al., 1987; Scarpa, Haden & Hurley, 2006). Witnessing crime is associated with elevated rates of depression and anxiety (Clark et al., 2008; Fitzpatrick, et al., 2005), and victimization or exposure to violence predicts violent offending, with offending likelihood rising according to the number of incidents witnessed or experienced (Farrell & Zimmerman, 2017).

Children and families are deeply affected by violence. A meta-analysis of 114 studies of youth and children exposed to violence showed that exposure is related to post-traumatic stress disorder and externalizing behaviors (Fowler, et al., 2009). Children are more likely to have experienced or witnessed less severe violence (punching/slapping/hitting) than severe violence (using a weapon), and across multiple studies, prevalence rates for children witnessing lower severity violence were 44 to 82% (Stein et al., 2003). Youth who are victims of violence or who witness violence are more likely than other youth to commit crimes (Eitle & Turner, 2002). Children in Baltimore city have been shown to have high levels of exposure to violence (Cooley-Strickland, et al., 2011; Kaufman, et al., 2011), and to more incidents of violence and more severe violence than those from other Maryland jurisdictions (Gladstein et al., 1992).

Communities suffer collectively due to violence as well, both emotionally and economically. One study estimated in 1997 that gunshot wounds cost U.S.\$126 billion, with cut/stab wounds costing another U.S.\$51 billion (Miller & Cohen, 1997). Mental health services, medical care, emergency services and transport, administrative costs (such as health insurance claims and legal costs), loss of productivity, cost of punishment,

and pain and suffering also apply in cases of violence without a weapon (Miller & Cohen, 1997). Another study estimated 2000 costs at \$70 billion, with \$64.4 billion or 92% due to lost productivity, and \$5.6 billion for medical care (Corso et al., 2007). To prevent loss of life, suffering, and the social and economic impacts of violence, we must find effective solutions in high-violence communities.

### **Criminal Justice Response to Violence**

In response to high rates of violence, local criminal justice networks are overburdened, and many would argue overused, with heavy reliance on the police, court and correctional systems. A brief discussion follows on use of police, courts and corrections to address violence nationally and locally.

#### **Policing**

The incredible decreases in violence in the 1990s have been attributed in research and the media to thousands more police officers on the street, which brought a reduction in homicide (Levitt, 2004) as well as in less severe crimes (Finkelhor & Jones, 2006). However, studies have not supported a connection between violence reduction successes and the aggressive arrest procedures for misdemeanor crimes that have been on the rise since the 1990s under the “Broken Windows” theory referenced in chapter 3 (Levitt, 2004). Although Baltimore’s high numbers of arrests in the early 2000s declined steeply from around 110,000 in 2003 to around 25,000 in 2018 (Anderson, 2020; Broadwater, 2018), the arrest rate remained high compared to the national average (FBI, 2019d). With this higher arrest rate came more incarceration, but it has not made a sustained change in violence overall relative to other communities, with 2019 violent crime at twice the

national average and homicide at nearly three times the national average (FBI, 2019b; FBI, 2019c).

### **Courts and Corrections**

Courts across the country are overloaded with criminal cases, particularly with cases related to minor violence. An analysis of eleven state courts revealed that misdemeanors comprised 79% of their total caseload (LaFountain, et al., 2008). There is a growing acknowledgement that misdemeanors matter, as the volume of misdemeanor cases nationwide has risen from five to more than ten million between 1972 and 2006 (Roberts, 2011). In what has been called a crisis, prosecutors and defenders are overloaded, for example with over 2500 cases per year in Detroit, which averages 32 minutes of attention per case (see Roberts, 2011). This is likely to have eased somewhat in jurisdictions like Baltimore (see Prudente, 2021) where prosecutors' offices have espoused a policy of non-prosecution for some drug- and sex-related offenses.

Increasingly, misdemeanor criminalization, with 13 million misdemeanor cases per year at 80% of the criminal caseload, is seen as a key tool of American mass incarceration (Kohler-Housmann, 2018; Natapoff, 2018). Misdemeanor arrest rates over the decades have held or climbed when crime rates have plummeted, more and more minor acts have been criminalized (Alexander, 2010; Kohler-Housmann, 2018; Natapoff, 2018). Even opening a misdemeanor case can have far-reaching collateral consequences for defendants, affecting employment, housing, and parenting, in many cases for a lifetime, and disproportionate negative impacts are felt in communities of color (Kohler-Housmann, 2018; Natapoff, 2018).



Prosecutor discretion can have a big impact in handling of misdemeanors. When criminal offenses are between non-strangers, they are more likely to be dismissed by prosecutor, acquitted by jury, and have a shorter sentence than in cases of stranger violence (Hessick, 2007). This difference is even more pronounced among simple assaults, where police and prosecutors have more discretion (Hessick, 2007). Racial bias in decisions and sentencing is just as likely in misdemeanor cases as in more serious offenses, according to a study of non-traffic district court criminal misdemeanors (Leiber & Blowers, 2003).

Baltimore City saw 27,500 District Court Criminal court case filings in FY19, which, taken per capita, is double the caseload of the rest of the state of Maryland combined (Maryland Judiciary, 2021; Maryland Department of Planning, 2021). Of the 27,500 cases filed in FY19, over half, 15,376 or 55.9% were marked *nolle prosequi* or not pursued, compared to 41.7% for all other parts of the state (Maryland Judiciary, 2021). In Baltimore city, the incarceration rate is 1,255 people per 100,000 residents age 18 or older. This is more than double the national rate (455), and more than triple Maryland's rate (383) (Justice Policy Institute and Prison Policy Initiative, 2013). These figures indicate a need to better understand ways to decrease violence without disproportionately increasing use of the retributive justice system.

This study tests the association of community-based mediation for criminal misdemeanor cases with reduction of assault recidivism and violence. Described in chapter two, community mediation programs number several hundred in the United States (Charkoudian & Billick, 2015; Corbett & Corbett, 2013), and allow neighbors, family members, coworkers, or others in conflict to sit down face-to-face with one or two

neutral professionally trained volunteer mediators to talk through the conflict, including stages for listening, naming issues to be resolved, brainstorming solutions, and agreement writing (American Arbitration Association, American Bar Association, & Association for Conflict Resolution [AAA, ABA & ACR], 2005).

### **Purpose, Goals, and Research Questions**

This study's goal is to examine whether and how the use of community-based mediation diversion can reduce assault recidivism and violence between adult participants. Below are the research questions guiding the dissertation.

**Research Question 1:** Among criminal misdemeanor cases in Maryland District Court, does community-based mediation reduce return to court after six months, versus the usual court process?

**Research Question 2:** Which case-level characteristics (if any) are associated with a reduction in return to court?

**Research Question 3:** How do mediation participants perceive the impact of the experience of criminal court-referred mediation on their inclination to use violence?

In addition to these initial questions, the follow-up research questions below were added given the findings of RQ1 & RQ2.

**Research Question 4:** What case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?

**Research Question 5a:** With assaults between couples excluded, how would the return to court differ between misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment;

**Research Question 5b:** With assaults between couples excluded, how would the return to court differ between and all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment?

## Chapter 2:

### Review of the Literature on Community Mediation, Violence, and Their Proxies

Community mediation is one of many types of face-to-face conflict resolution services. When applied as a criminal court diversion strategy, it also joins a broad array of violence prevention programs. The following review of literature examines and defines the independent variable of community-based mediation for those diverted from criminal court, contextualizing it among violence prevention programs, criminal court diversion programs, and conflict resolution or mediation programs. A concept map of these overlapping intervention types is below in Figure 1.

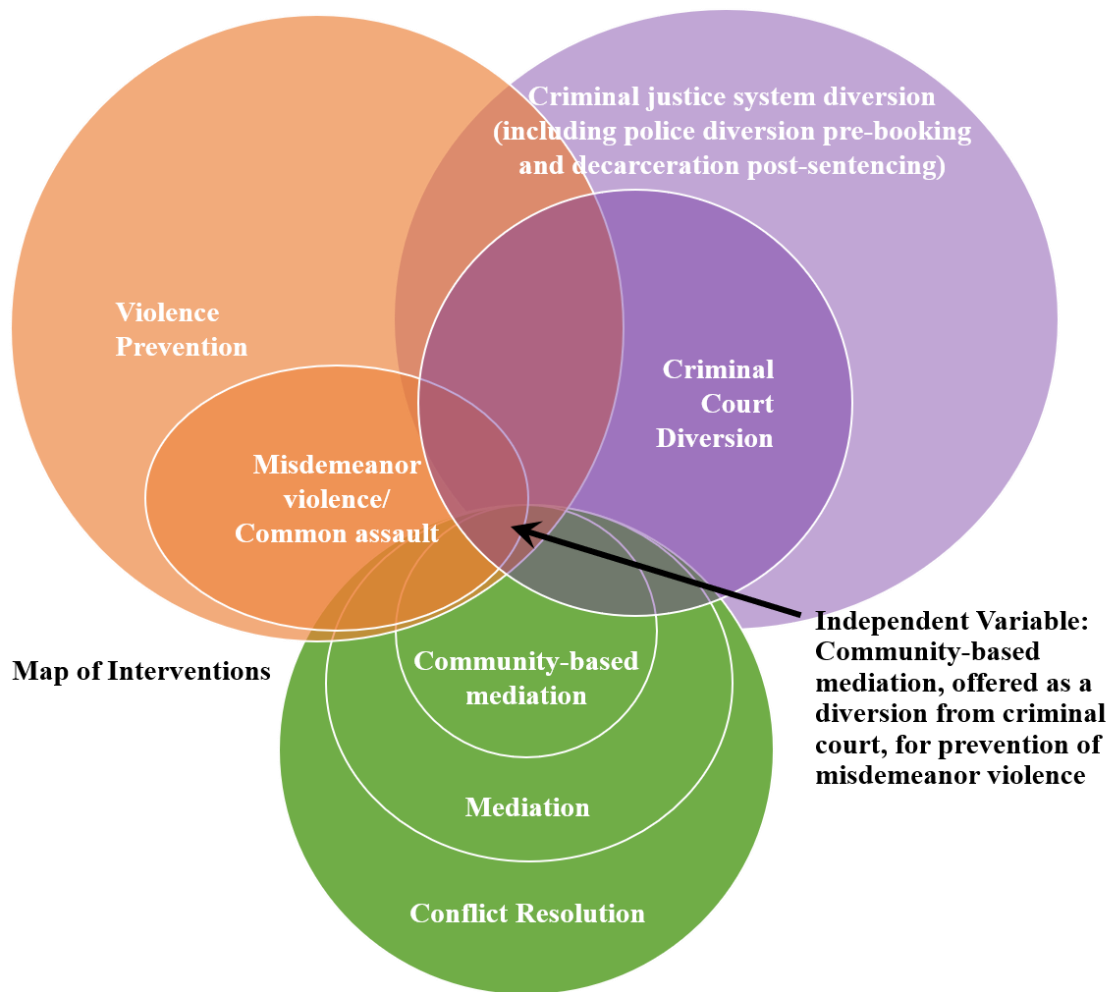


Figure 1. Concept map of community-based mediation contextualized

Following an exploration of the literature defining community-based mediation among these intervention types, a review of the published literature on conflict resolution interventions' ability to reduce violence is presented. No known studies have examined the impact of community-based mediation on incidents of violence. Instead, eight studies are presented in some depth which research mediation and similar conflict resolution services' association with individual criminal recidivism.

### **Violence Prevention**

A recent Center for Disease Control systematic meta-review by Matjasko, et al. (2012) analyzed 37 meta-analyses and 15 systematic reviews that examined more than 3400 research projects on violence prevention programs. Mediation programs (described in depth below) were highlighted as a type of intervention that has shown strong effects in reducing violence, but with the research literature largely in school-based settings with youth (Matjasko, et al., 2012). The ability of mediation to reduce violence, especially among adults, is largely unknown in the public health, criminal justice, and social work violence prevention literatures.

### **Criminal Court Diversion in General**

A wide array of criminal court diversion programs have been introduced in the US and internationally in recent decades, in response to overloaded courts and police forces, with police, prosecutors and defenders overburdened with less serious cases, as well as high recidivism, and mass incarceration for comparatively minor crimes (The Center for Health and Justice (CHJ), 2013; Shdaimah, 2010). There is a move toward pre-trial diversion, and to finding resolution to lower-level crimes outside the courts, with Former Florida Supreme Court Chief Justice Gerald Kogan declaring "it is time to end

the wasteful and harmful practices that have turned our misdemeanor courts into mindless conviction mills” (Roberts, 2011, p. 279).

Diversion programs exist at many stages of the criminal justice system, and court diversion may be applied pre-trial or pre-sentencing as an alternative to trial or incarceration (CHJ, 2013). Many of these programs espouse therapeutic goals, and are informed by principles of problem-solving justice and therapeutic jurisprudence, with diverse structures, methods, and philosophies (Wexler & Winick, 1990; Wolf, 2007). The most common type of criminal diversion is drug court programs, which give specialized attention to and divert drug possession cases from prosecution to supervised treatment (Nolan, 2003). Prostitution diversion programs, operating locally and across the nation offer mandated services and supervision to people arrested for criminalized sexwork as an alternative to charging or incarceration within the criminal justice system (Shdaimah, 2020; Shdaimah & Bailey-Kloch, 2012). Similarly, mental health courts divert cases involving defendants with mental illness to services. One study of a mental health court diversion program showed that after controlling for numerous confounders, those who completed all aspects of the program were 88% less likely to be rearrested than those who did not, and the effect was sustained over two years (Hiday & Ray, 2010).

Many types of criminal misdemeanors (and even felonies) are diverted to restorative justice programs, such as victim-offender mediation, community conferencing, family group conferencing, and restorative justice circles, most often with youth (Sherman, et al., 2015; Strang, et al, 2013); and to conflict resolution programs, such as arbitration, community boards, settlement conferences, and mediation (Eisenberg,

2017). These court-based, government agency-based, or community-based diversion programs can have varied staffing, locations, and philosophies.

Most court diversion programs, be they focused on therapeutic strategies or conflict resolution, have stringent rules, programmatic requirements and oversight as a condition of participation as well as consequences for failure to comply with these requirements, such as returning to court and occasionally even harsher punishment than if a diversion did not happen (Nolan, 2003). In addition, many claim that they are voluntary, but have serious consequences for non-participation (Nolan, 2001; Orr, et al., 2009; Quinn, 2006; Shdaimah, 2010). Although conflict resolution diversion programs such as community mediation do not have the same therapeutic approach or stringent regulations as a problem-solving court, they have been critiqued in similar ways for espousing voluntariness while punishing those who decline the service (Hedeen, 2005).

### **Conflict Resolution and Restorative Justice Interventions**

Since the 1970s, United States conflict resolution programs, from nonprofit community mediation centers to street conflict “interrupters” to restorative justice circles have been a promising cluster of interventions, bringing those in conflict together to talk things out face to face. Community mediation programs number over 400 in the United States (Charkoudian & Billick, 2015; Corbett & Corbett, 2011) and restorative justice programs have been estimated at over 700 domestically (Umbreit & Greenwood, 2000). A scant, but growing literature shows that conflict resolution services are associated with: disputant satisfaction (Alberts, Heisterkamp & McPhee, 2005); building community and understanding (Kaufer, Noll & Mayer, 2015; Ohmer, Warner & Beck, 2010); reducing hostility (Shual et al., 2010); improved co-parenting (Emery et al., 2001; State Justice

Institute, 2015); increased neighborhood collective efficacy (Ohmer, 2016); capacity- and skill-building for participants and mediators (Pincock, 2013); and resolving conflict (Abramson & Moore, 2001).

Street conflict interruption is another conflict resolution intervention that has recently been expanded in several cities in accordance with the Cure Violence public health model, first piloted as CeaseFire Chicago. Designed by Dr. Gary Slutkin, Cure Violence (see Butts et al., 2015) is based on the contagion theory of gun violence, that violence spreads through neighborhoods like a contagion from retaliation by victims, increased perpetration by previous witnesses, and increased access to weapons (Berkowitz & MacCaulay 1971; Pitcher et al., 1978). Several evaluation studies have found that Cure Violence initiatives were associated with a decrease in gun violence in Brooklyn (Picard-Fritsche & Cerniglia, 2013), Chicago (Skogan, et al., 2009), and some sites in Baltimore (Webster, et al., 2013; Whitehill, et al., 2013), but it was associated with increased violence in Pittsburgh (Wilson & Chermak, 2010).

Qualitative studies on mediation which center the participants' voices are rare. A few notable exceptions include cautionary critiques about community mediation's (Pincock, 2013) and victim-offender mediation's (Choi, Green & Kapp, 2010) ability to uphold their respective core values such as community capacity-building and victim-centered-ness, respectively. The strategies of street conflict interrupters (Whitehill, et al, 2013) and the effects of mediation on neighborhood and school violence among youth (Shuval, et al, 2012) have also been documented qualitatively.



## **What is Mediation?**

Mediation is a face-to-face conflict resolution process, which is voluntary and confidential, facilitated by neutral mediators. Mediation is defined nationally by a collaborative model standards design effort of the national professional groups American Arbitration Association, American Bar Association and Association for Conflict Resolution as “a process in which an impartial third party facilitates communication and negotiation and promotes voluntary decision making by the parties to the dispute” (AAA, ABA & ACR, 2005, p. 2; Weidner, 2006). Through mediation, participants in conflict talk things out, define the issues, brainstorm a plan together, and usually write solutions down in a written agreement.

## **What is Community-based Mediation?**

Within the broader umbrella of conflict resolution services, community mediation centers are a mediation delivery system, specifically defined by use of volunteer mediators who reflect the community’s diversity, are free or use sliding scale services, make referrals from diverse sources at any stage of conflict, and provide mediation in the neighborhood where the dispute occurs (Baron, 2004; Charkoudian, 2006; Harmon-Darrow, et al., 2020; Hedeem, 2004; Jeghelian, Palihapitiya & Eisenkraft, 2014, Mawn, 2019). In a recent survey of 117 of the estimated 450 community mediation centers in the United States, 74% were independent non-profits; 13% were part of multi-purpose agencies; 5% were in public non-court agencies; less than 1% were court-affiliated; 5% were university-based; and 3% had another structure (Charkoudian & Billick, 2015).

## **Volunteer Community Mediators**

Key to the definition of community-based mediation, an estimated 30,000 volunteer community mediators in the United States work to resolve family, neighborhood, and organizational conflicts (Corbett & Corbett, 2013). Community mediators are volunteers from a variety of backgrounds who receive extensive professional training and apprenticeship to work through a mediation center to resolve family, neighborhood, workplace, or other disputes.

In a national survey of 1,152 volunteer community mediators, Corbett and Corbett (2013) found that they were 60% female; racially diverse, though less likely to be of Hispanic Origin (3%) than the U.S. population (16%); far more likely to hold a college degree (93%) than the U.S. population (29%); and far more likely to be over 50 years old (69%) than the US population (33%). Community mediation centers have been estimated to save communities, courts, and government up to \$17,800,000 annually (Corbett & Corbett, 2013), and one study showed that in one year 14 centers achieved estimated savings of \$909,400 from 9,094 hours of pro bono mediation services from 505 volunteer mediators (Jeghelian, Palihapitiya & Eisenkraft, 2014).

### **Mediation Practice Approach: Inclusive Mediation**

The practice approach used at the majority of Maryland's community mediation centers is called Inclusive mediation. A brief discussion of mediation practice approaches will contextualize that approach. Motivated by a belief in mediation consumers' rights to understand the service they are being promised, and by the need to engage tailored evaluation and training, mediation leaders have been calling for better definition of mediators' practice approaches or styles for over 25 years (Bush, 2004; Charkoudian,

2009; Charkoudian, et al., 2009; Della Noce, 2012; Golann, 2000; Pruitt, 2012; Riskin, 1994; Riskin, 1996; Welton et al., 1988; Welton et al., 1992). According to classic definitions of mediator approaches (Kressel, et al., 2012; Riskin, 1994), Inclusive mediation is more facilitative than evaluative, and Inclusive mediation trainers teach a unified philosophy, discouraging an eclectic approach that changes by case or stage of case.

The Inclusive approach to mediation was created in Maryland in the 1990s to bring the radical inclusion already deeply woven into the community mediation movement to the mediation table as a core belief and practice. Community mediation includes all places (neighborhoods where the dispute occurred), times (convenient to the participants), problems (even if illegal), and people (not just those on a court filing) involved in the conflict. In the Inclusive mediation practice approach, radical inclusion is applied at the mediation table, which means welcoming all ideas without filtering or changing them, and working with all types of expression without designing or enforcing communication guidelines (Harmon-Darrow, et al., 2020). With respect to this study, the unique homogeneity of mediation approach at Maryland centers assures that the intervention is comparable across counties, although it may jeopardize external validity outside the state, since the findings may not apply to centers practicing a different mediation approach.

### **Studies of Community Mediation and Criminal Justice**

Studies of community mediation have examined an array of criminal justice outcome variables, including: prosecutor caseload reduction (Polkinghorne, LaChance & Hopson, 2010); reduced return to court (Charkoudian, 2010; Maryland Judiciary Court

Operations, 2016); reduced calls to police (Charkoudian, 2005); and reduced fear of crime (Umbreit & Coates 1992; Umbreit, Coates, & Vos 2001).

When the application of mediation to violent crime has been evaluated on a theoretical qualitative basis, it has generally been critiqued in five areas. First, some, often within the criminal justice system, fear that without formal retribution and punishment, crimes being mediated will continue or escalate, with alternative dispute resolution programs or other diversion acting as a proverbial slap on the wrist (Felstiner & Williams, 1978).

Second, the misapplication of mediation to situations of ongoing intimate partner violence was a major fear in early writing on mediation (Harrington & Merry, 1988), and continues to be a critical question with some supporting its cautious use, as long as key screening and safety planning procedures are in place (see Holtzworth-Munroe, et al., 2020; Paranica, 2012; Raines, et al., 2016; Rossi, et al., 2017), and some continuing to assert that it is too likely to endanger victims and allow for coerced mediation agreements (Goodmark, 2000).

Third, theoretical literature has described coercive undertones of criminal court-referred restorative justice and mediation when operating in the shadow of the retributive criminal justice system, both in its purportedly voluntary referral by a potentially intimidating prosecutor or judge, and in its procedures which may cause participants to fear that their case will be returned for prosecution (see Brown, 1994; Hanan, 2016; Hedeem, 2005).

Fourth, any police-, court-, or corrections-initiated diversion to services is often critiqued for its capacity to “net-widen” (Austin & Krisberg, 1981), which means that

interventions meant to reduce serious punishment for minor crimes can have the possibly unintended consequence of increasing the already too high (Alexander, 2010; Kohler-Hausman, 2018; Natapoff, 2018) number of people or crimes brought into the system. This may be seen as part of a centuries-long justice reform process where each new reform adapts and evolves new forms of coercion and social control, from torture and public beheadings to the penitentiary (touted as a bastion of compassion), to community corrections with GPS anklets (Foucault, 1979/2012).

Finally, the discourse of victim-offender mediation and other forms of restorative justice are critiqued based on their propensity to “domesticate” violence by privileging future ideals over past suffering (Brown, 1994; Cobb, 1997), replacing participants’ morality with the morality of mediation itself (Cobb, 1997); and implementing Foucaultian micro-physics of coercive punishment (Brown, 1994; Cobb, 1997; Foucault, 1979/2012; Hanan, 2016). Mediators, in this important critique, could “domesticate” or “erase” violence, by offering a neutral, nonjudgmental service after a violent crime has been committed. In this critique, moral judgment about the violence is withheld, and a new morality is dictated: that coming to a peaceful resolution with the offender is required of the victim.

This moral pressure to come to resolution varies by mediation type, as does the degree to which an incident of violence would be discussed in mediation. Amidst this critique, Hanan (2016) recommends use of a mediation model such as the form studied in this dissertation that does not require admission of guilt to participate and does not have a goal of healing, as most victim-offender mediation and restorative justice programs do.

All five threads of critique have great relevance to this study, and are revisited upon analysis of the qualitative components of the study.

To date, very little of the extant research literature, either quantitative or qualitative, has examined the question of the association between mediation and further violence between adult participants, focusing instead on important outcomes internal to the criminal justice system, such as reduced calls to police and recidivism to court or prison. Looking more narrowly at this dissertation's research aim on the ability of community mediation to reduce recidivism, eight similar studies were examined in detail, with regard to theory, methodological choices, and findings, as a basis for this study's design.

To focus this examination, the following definitions were used when searching for literature among seven health, human services, legal, and criminal justice databases. Research studies sampling adults were included, defined as those over 18 years old, because adult participants in conflict resolution interventions are a less-studied population than youth samples. Since empirical studies of conflict resolution-based violence prevention initiatives for adults are rare, the intervention was defined very broadly as any face-to-face intervention labeled mediation, conflict resolution, restorative justice, conferencing, or dispute resolution. Participants were sitting together face to face and discussing the conflict, problem or crime, as well as solutions. The target recipients of these services needed to be individuals, not nations, towns, ethnic groups or factions, as in many types of international mediation and dispute resolution, though international samples of individual conflict resolution services were included. In addition, an outcome of individual criminal recidivism was required. Qualitative research was included in six

of the seven database searches and none were discovered on this research question. In the search of one legal database, quantitative studies were specified, so qualitative studies could have been lost in the effort to screen out op-eds and essays.

A summary of the studies' theory, methodological decisions, and findings follows.

### ***Theory***

The theoretical bases for the included studies fall into two general categories. First, studies of victim-offender interventions (Armour, et al., 2005; Gilligan & Lee, 2005; Jonas-van Dijk, et al., 2020; Koss, 2014; Stewart, et al., 2018) were grounded in restorative justice theory, which holds that communities and individual victims and offenders can deal with crime and harm better than the state can, by talking things out face to face to repair the harm, rather than meting out an impersonal punishment (Braithwaite, 1989; Christie, 1977). Similarly, three studies' programs (criminal court mediation, Davis, 2009; and Maryland Judiciary, 2016; and prisoner re-entry mediation, Flower, 2014) were from a community mediation tradition, grounded in notions of community justice and neighborhood self-determination (Christie, 1977; Shonholtz, 1987; Wahrhaftig, 2004). One study (Flower, 2014, along with companion article Charkoudian & Flower, 2009) also cited life-course theories of crime (Sampson & Laub, 1995), which hold pro-social family and neighborhood relationships as central to decisions to desist from crime.

### ***Design***

Criteria for inclusion and exclusion specified empirical studies of the effects of conflict resolution programs on violence reduction, therefore all included studies are program evaluations. Included studies are also all quantitative in nature, although this

was not a selection criterion, with one containing a significant qualitative component (Armour, et al., 2005). From these key similarities, the study designs diverge, with diverse units of analysis, comparison group structure, comparison group construction methods, and analysis frames (intention-to-treat or per-protocol analyses).

**Units of analysis.** For most of the included studies (Armour, et al., 2005; Davis, 2009; Flower, 2014; Gilligan & Lee, 2005; Jonas-van Dijk, et al., 2020; Koss, 2014 and Stewart, et al., 2018) the unit of analysis was an individual program participant. Within two of those studies (Davis, 2009, Koss, 2014), a minority of analyses pertained to the case as a whole, not individuals. One study performed several analyses with each unit of analysis (Maryland Judiciary, 2016). With a case as unit of analysis, the outcomes and predictor characteristics were associated with the case itself, not the individuals involved, such as, did the case return to court, and what were the initial charges.

**Comparison group structures.** Research design structures varied among the studies, with one randomized control trial in criminal court mediation (Davis, 2009), a pre-/post- longitudinal survey of participants (Koss, 2014), and six longitudinal quasi-experimental designs (Armour, et al., 2005; Flower, 2014; Gilligan & Lee, 2005; Jonas-van Dijk, 2020; Maryland Judiciary, 2016; Stewart, et al, 2018). One of these, rather than using a comparison group of similar size and composition to the program participant or program area, compared the program participant outcome measures (individual criminal recidivism) to statewide total numbers (Armour, et al., 2005).

**Comparison group selection.** The method through which comparison groups were selected or constructed varied among the quasi-experimental studies. Three of the quasi-experimental studies (Flower, 2014; Gilligan & Lee, 2005; Jonas-van Dijk et al.,



2020) examined two control groups: first, a control group who chose to use the conflict resolution service but did not have a session successfully scheduled (due to the other participant declining or other challenges), and second, a comparison group of those not served. A critique of many studies of voluntary programs is that the program's positive effects may be due to some innate quality within service adopters, such as peaceability. So this innovation of comparing the service user not just to the un-served service decliner, as is typical in quasi-experimental program evaluations, but to the un-served service adopter, means that selection bias is addressed in a more powerful way.

### ***Sample***

Study samples were varied as well. For the recidivism studies (Armour, et al., 2005; Davis, 2009; Flower, 2014; Gilligan & Lee, 2005; Koss, 2014), the samples included inmates participating in in-prison restorative justice programs: (n=1021 in Armour, et al., 2005, n=202 in Gilligan & Lee, 2005), inmates re-entering society (n=6704 in Flower, 2014; n=244 in Stewart, et al., 2018), and criminal court cases (n=465 in Davis, 2009; n=1275 in Jonas-van Dijk, et al., 2020; n=22 in Koss, 2014; and n=216 in Maryland Judiciary, 2016). None of the studies made any reference to having conducted a power analysis.

### ***The Intervention***

Each study defined its independent, control, and dependent variables in different ways, and showed different levels of attention to issues of dosage and fidelity to the intervention, as well as outcome variable timeframes. The independent variables were the very diverse interventions themselves: multi-week restorative justice programs for inmates including victim-offender dialogues (Armour, et al., 2005, Gilligan & Lee,

2005), victim offender restorative justice conferencing for sexual assault cases (Koss, 2014), prisoner re-entry mediation for returning citizens and their families (Flower, 2014), victim-offender mediation at re-entry (Stewart, et al., 2018) court-referred mediation of criminal misdemeanors (Davis, 2009, Jonas-van Dijk, 2020; Maryland Judiciary 2016). Of note was the routine (Armour, et al., 2005) or occasional (Koss, 2014) use of surrogate victims or “volunteer victims” who were assault survivors now advocating and educating, but were not the victim of the offender they were meeting with. Two of these studies also took matters of dosage into account, comparing a categorical measure of the length of stay (8, 12, or 16-weeks) in an in-prison restorative justice program to the recidivism rates of inmates (Gilligan & Lee, 2005), or number of mediation sessions received in a prisoner re-entry mediation (Flower, 2014). Stewart and colleagues (2018) also considered the timing of the intervention, that is whether it was delivered before or after prisoner re-entry.

The studies represent a range of stages and settings in which the intervention is administered: court diversion from prosecution (Davis, 2009; Jonas-van Dijk, 2020; Koss, 2014; Maryland Judiciary, 2016), in prison (Armour, et al., 2005; Gilligan & Lee, 2005), and at the point of re-entry from prison to community (Flower, 2014; Stewart, et al., 2018).

### ***Findings: Effect on Individual Criminal Recidivism***

Restorative justice interventions and mediation were associated with lower return to court, re-arrest, and re-incarceration versus comparison groups.

**Programs Delivered in Prison or at Re-Entry.** One of the in-prison restorative justice programs (Armour, et al., 2005) had a three-year recidivism rate for program

graduates of 12.4%, compared to 31.4% for inmates in Texas released in the same year. The second in-prison restorative justice intervention showed that treatment group inmates had lower rearrest rates for violent crimes ( $-46\%$ ,  $p < 0.05$ ) and spent less time in custody ( $-42.6\%$ ,  $p < 0.05$ ). The decline in violent re-arrests increased with greater lengths of stay ( $-53.1\%$ ,  $p < 0.05$  for 12 weeks or more;  $-82.6\%$ ,  $p < 0.05$  for 16 weeks or more; Gilligan & Lee, 2005).

**Programs Delivered at Re-Entry.** For prisoner re-entry mediation (Flower, 2014) the treatment group was 13% less likely to be re-arrested, with each additional mediation session reducing predicted probability by another 8%. Reconviction was 15% less likely, plus 9% for each additional session. Re-incarceration was 10% less likely, with a 7% further reduction for each additional session. Treated inmates were 12% less likely to return to prison on a technical violation, but additional sessions had no statistically significant effect. Survival analysis also showed a significantly longer time-to-arrest (28% longer) for mediation users (Flower, 2014). For victim-offender mediation before or after prison re-entry, VOM participants had significantly fewer revocations during the study period than the matched sample,  $\chi^2(1) = 12.14$ ;  $p = .0005$  (Stewart, et al., 2018).

**Criminal Court Diversion Programs.** In the first criminal court diversion mediation study (Davis, 2009), 3% of participants whose cases were mediated were re-arrested within four months, compared to 5% of those whose cases were prosecuted, with a non-significant difference in both the intent-to-treat analysis (all those referred for mediation) and the per-protocol analysis (those who went to mediation). Recidivism was lowest by all measures for those who did not attend either mediation or trial. For the

second criminal court diversion study (Maryland Judiciary, 2016), predicted probability of returning to court at one year was 1.7% for those using mediation, and 8.2% for cases treated as usual in court. In the sexual assault restorative justice court diversion program, 67% of felony cases and 91% of misdemeanor cases were completed with no recidivism (Koss, 2014). In the Victim-Offender Mediation court diversion program (Jonas-van Dijk, et al., 2020), the usual court process group had a significantly higher risk to reoffend compared to the mediation group, (OR = 1.54,  $p = .001$ ), but there was no statistically significant difference between the mediation and the control group of unserved service adopters (OR = .90,  $p = .48$ ; Jonas-van Dijk, 2020).

### **Summary of the Evidence**

Conflict resolution interventions appear to be related to modest reductions in individual criminal recidivism for participants, when compared with standard criminal justice system treatment (Armour, et al., 2005; Davis, 2009; Flower, 2014; Gilligan & Lee, 2005; Koss, 2014). When intervention variables like dosage (Flower, 2014; Gilligan & Lee, 2005) or service timing (Stewart, 2018) are included in the analysis, they are shown to be related to individual criminal recidivism. Application of conflict resolution or restorative justice interventions at the stage of court diversion (Davis, 2009; Jonas-van Dijk et al., 2020; Koss, 2014; Maryland Judiciary, 2016), in prison (Armour, et al., 2005; Gilligan & Lee, 2005), or at re-entry (Flower, 2014; Stewart, et al, 2018) appears to be similarly promising in reducing negative outcomes, when compared with standard criminal justice interventions like policing, prosecution, and corrections. Although the community-based mediation intervention (as in Davis, 2009 & Flower, 2104) is offered at each of these conflict stages, this dissertation study is a secondary data analysis of the

Maryland Judiciary (2016) dataset, examining cases being offered criminal court diversion, similar to the stage studied by Davis (2009), Jonas-van Dijk and team (2020), and Koss (2014).

### **Chapter 3: Theories of Violence and Nonviolent Change**

Community-based mediation is an intervention based in the philosophy of community justice that conflict is a normal part of life, that it can be channeled away from violence and toward positive change, and that communities can best resolve their own conflicts outside the criminal justice system. The theoretical model for this dissertation involves both theories of the problem and program theories, in order to contribute to collective understanding of the social problem; of the intervention's goals, strengths and weaknesses; and of the intervention's possibilities when applied to that problem (Fraser, 2009; Melnyk & Morrison-Beedy, 2012). Diamond (2006) acknowledged an evident "theory gap" in the literature on community mediation. This dissertation will attempt to address this gap by suggesting theoretical mechanisms that may explain community mediation's ability to achieve certain outcomes.

Community-based mediation is described here as a braiding of three theories that explain the nature of the problem of interpersonal community violence and three theories of change, each of which informs the founding community justice model, which supports the intervention's application to the prevention of violence. In this chapter, theories of change will be explored in light of their respective problem theories, followed by an explanation of community justice and community mediation. First, conflict theory provides the foundation that informs principles of nonviolent social change for communities and conflict resolution for individuals. Second, a social disorder theory of violence supports a theory of change centered on collective efficacy for communities and informal social control among individuals. Third, a symbolic interactionist understanding of violence escalation informs an early intervention or prevention theory of change,

which is definitional to all violence prevention, including community mediation applied to violence. The theoretical model is summarized in Figure 2 below.

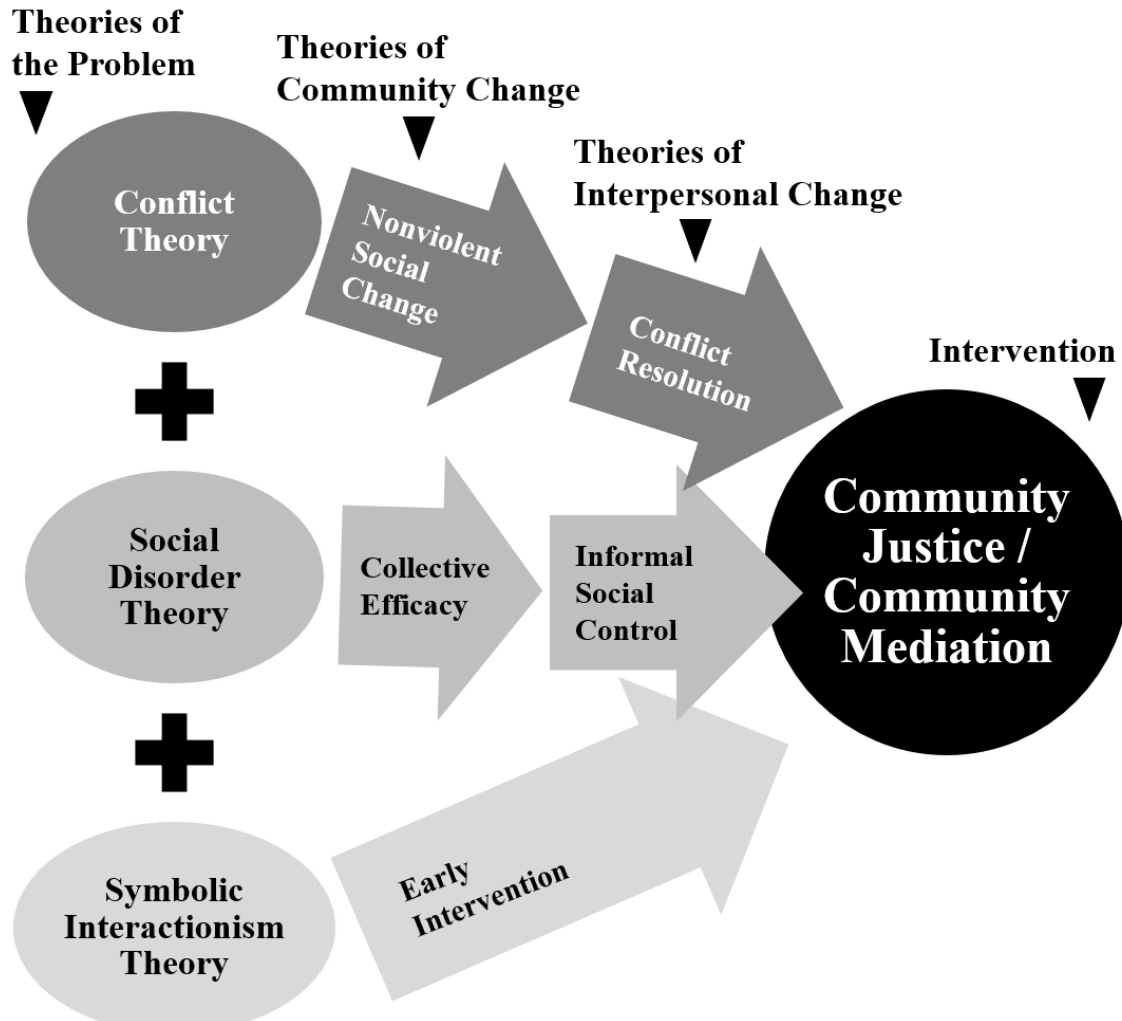


Figure 2. Theoretical model

In brief, conflict theory holds that conflict is a natural and inevitable part of social, economic, and interpersonal life, and can create needed changes or destruction, depending on how it is handled. This concept undergirds much of the thinking on nonviolent social change, as well as the theory and practice of nonviolent conflict resolution, where problems are talked out face to face for a mutually beneficial collaborative solution, without recourse to violence. Nonviolent social change and

conflict resolution are in turn founding principles of community justice and community mediation. In addition, social disorder theory posits that neighborhoods with high poverty, high low-severity crime, and low residential tenure are ripe for violence. From this classic sociological theory, theories of neighborhood collective efficacy have been developed, supporting interventions that help knit neighbors together to build power and prevent crime. On an individual level, a mechanism of informal social control is theorized, with youth and adults less likely to commit crimes when relatives and neighbors are watching over them and may hold them accountable. This too was a founding theory of community justice and community mediation, where neighborhoods resolve conflict on their own, outside the formal criminal justice system. Finally, a symbolic interactionist view of violence takes a situational view of violent crime, and sees it not as dictated by, but co-created by societal or psychological weaknesses, and collaboratively built through a series of symbolically meaningful exchanges and character contests. This focus on escalation supports a preventative or early intervention theory of change, which in turn supports interventions in a community justice model like community mediation, which address low-severity violent crime not only to improve quality of life, but to prevent escalation to serious assault or murder. The inter-relationship of these three theoretical strands forms the theoretical model for this dissertation study, and the topic of this chapter.

### **Problem Theories and Theories of Change**

At least as long as humans have written things down, we have struggled to understand and prevent violence (Doerner & Lab, 2015; Pinker, 2011). Much of the story of violence prevention theories of change is the story of retributive justice and deterrence,



the combination of measured enforcements and sanctions enacted by police, criminal courts, and corrections to punish and label criminals, and deter future violent crime (Alvarez & Bachman, 2017; Husack, 2020). Going back through noted scholars such as Hobbes (1651/1957) and Beccaria (1764), and even to humanity's first conflict resolution treatise, Hammurabi's (1754 B.C.E./n.d.) codified "eye for an eye, and a tooth for a tooth," the long process of refining our systems of enforcement and punishment represent the majority of human thought on how to prevent violence and deal with conflict. Community justice and community mediation represent a powerful step outside that retributive justice system and can be seen in light of three important theories of change. First, out of conflict theory, the traditions of nonviolent social change and conflict resolution are the core founding principles of community justice interventions. Second, collective efficacy and informal social control are theories of change that come from social disorder theory and also undergird the community mediation intervention. Finally, early intervention approaches to violence have evolved out of a situated, symbolic interactionist theory of violence, and may be viewed as a final building block of the community mediation movement's application to the problem of violence.

### **Nonviolent Social Change**

Nonviolent social change, the belief that oppressive groups and governments can be transformed through nonviolent social action, is a key theory of change behind the community mediation movement. Multiple world religions have a long tradition of espousing nonviolence, including the oldest continuing religion of Hinduism, whose holy texts, the Upanishads, outline a path of *Ahimsa*, or nonviolence (Armstrong, 1993). Nonviolence movements have often been grounded in Christ's teaching: "You have heard

that it was said, 'Eye for eye, and tooth for tooth.' But I tell you, do not resist an evil person. If anyone slaps you on the right cheek, turn to them the other cheek also”

(Matthew 5:39, The New International Version).

Conflict Theory is the theory of the problem of violence most often associated with nonviolent social change and conflict resolution. Briefly, in founding conflict theory, Marx and Engels (1848) wrote that from the inevitable conflict of the struggle between economic classes, a new system can be created. These ideas were themselves an economic application of Hegel's dialectic (1893), which expanded on the oppositional nature of the Socratic method to define a dialectic in which an assertion is confronted by its opposite and a new truth is built. Conflict, then, was not only necessary for a more just system to be created, but it was inevitable and resolvable. Also influential in conflict theory's development was the Darwinian concept of a biological survival of the fittest, in which all living creatures have a competitive instinct which leads to improved adaptation to the environment and to positive evolution (Darwin, 1859). Although Darwin did not support application of his theories of biology to social interaction (Degler, 1991), they were broadly influential, and cooperation began to be understood as a mark of civility over the biological imperative of competition. The early sociologist Durkheim (1895) applied these concepts of inevitability and utility of conflict to the study of crime and violence, noting that crime was part of any healthy functioning society, and sometimes served to create an evolutionary progression of both morals and law, preparing society for change.

Building on centuries of pacifist writings against the violence of war, including notably Quakers such as George Fox and Mennonites, Thoreau applied conflict theory to

nonviolent social action in a domestic setting, advocating civil disobedience against unjust laws and oppressive government actions (Thoreau, 1848/2016). Russian thinker Tolstoy wrote similarly about the idea that just as all international relations are based in the threat of war, so all power was based in the threat to do bodily harm. He advocated eschewing all forms of coercion, rising against oppressive state-sponsored injustice, and avoiding coercive economic behavior or interpersonal communication in one's own life and community. There was a (premature) optimism that as with slavery (then recently abolished) humans would soon realign their behavior with their morals and put an end to war and other state violence which were antithetical to Christ's teachings (though well-supported by church doctrine; Tolstoy, 1893).

Social work matriarch Jane Addams was among the leading pacifist voices in outlining a theory of change around nonviolent social action in the United States, also serving as an early conflict resolution practitioner during labor-management mediations. Influenced by both Tolstoy and Thoreau, she asserted that retaining the virtues of war as a key American value and as equivalent with patriotism was dangerous not only for our national propensity to wage or join more wars, but also because it promoted interpersonal violence in American cities, preventing the development of new versions of courage, and active peacemaking (Addams, 1907).

From the long tradition of *Ahimsa*, and in early communication with Tolstoy, Mohandas Gandhi led a series of movements for nonviolent social change beginning in South Africa, and working to overthrow more than three centuries of British colonial rule in his native India. His ever-evolving notion of *Satyagraha* combined the power of the divine life force, interpersonal love, and active non-cooperation with unjust laws,

prescribing a purification of the self to be able to resist returning violence for violence (Gandhi, 1948). As one of several intellectual intermediaries between Gandhi and American civil rights movement leader Rev. Dr. Martin Luther King, Jr., Gregg (1935) catalogued successful nonviolent direct action movements, and theorized the moral content of nonviolence as a form of jiu-jitsu, or non-resistance to an enemy attack, causing the assailant to lose his moral balance or assurance that violence is the correct path. Sharp (1959) created a nonviolent social action typology, and, in a still-influential treatise (see Engler & Engler, 2016, for its role in Egypt during the 2010-11 Arab Spring) catalogued 198 successful nonviolent tactics, including the creation of alternative social systems to replace violent ones (Sharp, 1973).

Following the devastation of World War II and the introduction of weapons of mass destruction, interest in nonviolent change gained urgency, as possession of nuclear power made obsolete the threat of traditional war (see Arendt, 1970), and necessitated diplomacy and other forms of conflict resolution (King, 1960). Violence came to be seen not as a source of power, but as its false substitute, appearing just when power was most threatened (Arendt, 1970). Describing a direct line from the tension and opposition of the Socratic method to conflict theory and Gandhian nonviolent social action, King (1963) wrote to detractors while in jail following a civil rights protest, that the power for social change was in non-violence. He saw returning violence for violence as a weak and weakening response, because it invites continuing retaliation (King, 1967). Rather than suppressing anger and discontent, he sought to creatively channel it into social change (King, 1963).

Looking back over the 20<sup>th</sup> century, Engler and Engler (2016) note that nonviolent uprisings are increasing in power and sophistication and are consistently more effective than violent uprisings. A review by Stephan and Chenoweth (2008) evaluated 323 violent and nonviolent campaigns occurring between 1900 and 2006. They found that the nonviolent campaigns succeeded with their goals 53% of the time, although only 27% of the armed struggles ultimately succeeded, largely due to their ability to shift the loyalty of bureaucrats and security forces.

### **Conflict Resolution**

Also derived from conflict theory, and on a more interpersonal level, another major thrust of violence prevention work has been conflict resolution. As described in the 1940s, 50s and 60s by Lewin & Gold (1947/1999), Deutsch (1949), Dahrendorf (1959), Coser (1956) and Adams (1966), conflict theory held, variously, that conflict was itself a neutral force, which could cause positive (e.g., social change, or new understandings of truth, in the tradition of Marx and Hegel) or negative (e.g., violence) results, through cooperation or competition. By the early 1970s, Scanzoni (1972), Sprey (1974) and others were applying conflict theory to family life, purporting that conflict in families can be a positive element, if directed toward positive change and people getting their needs met, not toward violence and division. A two-dimensional taxonomy of five conflict modes was developed to include competition, collaboration, compromise, avoidance, and accommodation sorted by the degree to which they embody cooperativeness and assertiveness (Thomas, 1974, with roots in Blake, Mouton, & Bidwell, 1962). Violence, then, is only one of a range of conflict tactics applied to interpersonal community disputes, each of which might have positive or negative outcomes. Conflict resolution

calls for separating conflict from conflict tactics, and people from the problem to be solved (Deutsch, Coleman & Marcus, 2011; Fisher, Ury & Patton, 2011; Schellenberger, 1996). Kurt Lewin (1940/1997) studied marriage conflict and theorized that much of it boiled down to evolution through conflict between the individual's goal of freedom and the couple's group goals. Studying conflict in military factories, he developed a conflict resolution framework for focusing on the problem to be solved, not people's past behaviors, and on giving a participatory voice to those closest to the problem at hand (Lewin, 1944/1997).

On a community or societal level, Nils Christie (1977) reframed conflict as belonging to the people and communities involved, not to an impersonal state. This model held that community members should identify and bring conflicts to light, not bury them in bureaucracies. Police, courts and corrections were not being overburdened; they were being misused to handle many issues that were between community members. Victims were erased in the criminal justice system, both as vocal actors, and as recipients of restitution, as in ancient systems of justice. Out of these ideas, came two threads of violence prevention strategies: the restorative justice movement and the neighborhood/community justice or community dispute resolution movement.

### **Informal Social Control and Collective Efficacy**

Some community-level violence prevention theories of change are derived from social disorder theories of crime, which posit that high rates of violence happen in specific ecologies where there are co-occurring problems with schools, employment, housing and infrastructure. Shaw and McKay (1942) asserted that offending behaviors were a logical outgrowth of chaotic, unregulated, disordered neighborhoods with high

poverty rates, and fear based in low neighborhood tenure, with racially heterogeneous groups of residents continually transitioning in and out. Sampson and Groves (1989) found that the effects of structural predictors like poverty, family disruption and low tenure on crime are largely mediated by local friendship networks, community organization participation, and supervision of teens. Sampson and Laub (1995) further expanded on this social disorder tradition by focusing on not only the effects of social disorder brought about by poverty, but the critically lacking informal social controls that family members, neighbors, peers and other important relations are able to exert to prevent violence.

Broadly, informal social control is the influence we have on each other as family members, friends, associates, and neighbors to encourage pro-social, rather than anti-social behavior. Sociologists and criminologists have shown how informal social control is effective in preventing crime (Bellair, 1997), and in reducing offending among adults (Sampson & Laub, 2005). On a community level, a theory of change closely related to social disorder is that of collective efficacy, which holds that neighborhoods with strong ties between neighbors, informal social control, and connections to outside resources are powerful enough to prevent violence and interrupt it on the spot (Bellair, 1997; Bursik & Grasmick, 1999; Sabol, Coulton & Korbin, 2004; Sampson, 2006; Warner & Rountree, 1997). Empathy motivates community members to protect each other, and to discourage anti-social behaviors. Studies of collective efficacy-based interventions to reduce violence are in their early stages, and empirical studies do not focus on the outcome of violence itself as yet (see Ohmer, 2016).

It should be noted here too that social disorder theory is the violence theory stream that informed “broken windows” policing methods (Skogan, 1992; Wilson & Kelling, 1982). This criminal justice theory asserted that since a broken window invites more broken windows, greater enforcement of lower-level crimes like graffiti will reduce social disorder and prevent more serious crimes like violence. This theoretical tradition and the policing changes it inspired are widely blamed by both scholars and social critics for increases in mass incarceration and police harassment and brutality (Alexander, 2012; Coates, 2015). Some have asserted that theories of change related to informal social control and collective efficacy are more appropriate to the original spirit of social disorder theory than broken windows theories of change that have had a wide readership and controversial influence on criminal justice policy (see Warner, Beck & Ohmer, 2010).

### **Early Intervention in Escalating Disputes**

Violence prevention through an early intervention theory of change is built from symbolic interaction theory, in which violence escalates in the context of a specific dialogue, relationship, and situation. Grounded in the work of George Herbert Mead (1934), symbolic interaction theory holds that human beings create meaning around the events that occur in their social relationships and interactions, with each actor interpreting the acts of those around him or her and creating a new reality out of perceptions of others’ actions and their own. To Mead, human meaning is created by a gesture of one, a response from another, and a social act of the first. As with conflict theory, the application of symbolic interactionism to the study of violence and crime was part of a general shift toward the study of violence as an event or interaction (Alvarez & Bachman,



2016). Building on Mead's key conception of the self's role in interactions, Blumer (1962) highlighted that interactions are not deterministic. Setting and culture do not determine what we do; situation and interaction do (Blumer, 1962). Researchers who applied symbolic interaction theory to the study of crime posited that a crime should be studied as a situation, not a pathology of one participant, or the partial fault of the other (see Wolfgang, 1958, on the culpability of victims), but as the apex of a series of interpretations of reality including a challenge to one or more disputant's identity (Athens, 1980; Felson & Steadman, 1983). Along these lines, Luckenbill (1977) studied homicides closely, and labeled them situated transactions, building through a series of escalations from insults to honor to a rare event, with most murders escalated from fights initiated by the eventual victim. This relational, co-created view of violence connects back with the research explored in chapter two on the victim-offender overlap, in that many of the same people are offending and victimized at different times, and the application of those labels may be due to the luck of the outcome of a mutual fight.

Since people bring socially-developed meanings from past interactions forward, early intervention is possible and necessary for preventing escalating violence (Mills, Dunham & Alpert, 1988; Polk & Kobrin, 1972). Some have also highlighted the idea that this symbolic interactionist view of escalating violence means that informal "mediators" (friends, witnesses in a bar, fellow gang members) can be successful at de-escalating a dispute at its peak or earlier on (Felson & Steadman, 1983), leading to bystander intervention trainings. More recently, restorative justice interventions similar to community-based mediation have used a symbolic interactionist lens to dissect how they

can stop conflict from escalating and re-integrate people whom they define as offenders into community (Haney, Thomas & Vaughn, 2011).

Early intervention strategies are of course called for within the deterrence-focused world of traditional crime-fighting as well. Major initiatives include Boston's Ceasefire predicated on earlier research that urban homicides are more often based on escalating disputes between enemies than on instrumental drug-related motivations (Kennedy, 1996). The literature on escalation of intimate partner violence, again, is useful in the absence of much literature on escalation of interpersonal community violence, and symbolic interactionist perspectives have provided a lens for understanding how escalating violence crystallizes the identities of survivors (Harrelson, 2013). This too implies that early intervention to de-escalate is indicated if one takes a symbolic interactionist view of violence.

### **Community Justice**

Theories of community justice and neighborhood justice influenced by Christie (1977) and Auerbach (1983) assert that many conflicts, even violent ones, are better resolved at the community or neighborhood level than in the criminal justice system. They see empowered self-determined communities as better able to resolve their own disputes, rather than giving them over to the state. Shonholtz (1987) and Tomasic and Feeley (1982) shaped this into a driving program theory for the community mediation movement, where conflict resolution sessions are facilitated by empowered community members (see Schwerin, 1995; Wahrhaftig, 2004), alongside other community empowerment activities in the tradition of nonviolent social action. Like restorative justice theory, community justice programs like community mediation consider crime an

offense against the victim and community, not the state, and seek to bring people involved in the dispute into a dialogue. To greatly oversimplify the distinction, a community mediation program would see two people having a conflict, where a restorative justice program would see a victim and an offender, though the dialogues may look very similar (see Bazemore, 2001; Latimer, Dowden & Muise, 2005; Umbreit, 1994; Zehr, 1990). Some attention has been paid to the co-optation of community-based mediation centers by the same justice system they were designed as an alternative to, clarifying again the founding concepts of community-based leadership and decision-making, community members as practitioners, and empowerment of participants (see Coy & Hedeem, 2005).

Many of the earliest and still thriving community mediation centers were founded in the Quaker tradition of conflict resolution, alongside broader efforts at global, domestic, and community peacemaking, pacifism and nonviolent social action (Wahrhaftig, 2004). When cases are diverted from the criminal courts, police, correctional system, or prosecutors, community mediators and community mediation centers act as an informal form of justice, and as agents of informal social control, providing a mechanism for participants to voluntarily choose a pro-social path for their dispute and hold each other to account (Shonholtz, 2000). Community mediation centers define themselves by a focus on early intervention (Charkoudian, 2006; Harmon-Darrow, et al., 2020; Jeghelian, Palihapitiya & Eisenkraft, 2014; Mawn, 2019) assisting participants before conflicts escalate from heated arguments and character contests to minor interpersonal violence to repeated or serious violence.

## **Application of Theory**

This dissertation tests the notion that community justice interventions can disrupt violence. Woven into the study are variables related to each of the three theoretical building blocks summarized above: conflict theory, social disorder theory, and symbolic interactionism. As is discussed in detail below in chapter 4, the study examined an array of variables, including: from conflict theory, attitudes about conflict, conflict type, and short-term case outcomes; from social disorder theory relationship types and lengths; and from symbolic interactionism type of charges, cross-charges, and length of conflict.

Use of a longitudinal dataset is also indicated by a prevention and early intervention theory of change, so that the ability to stem escalation over time is under study. Finally, in alignment with bottom-up community justice values, inductive qualitative interviews with mediation participants allowed them to drive the topics and raise themes to confirm, deny, or re-interpret the intervention's links to the three theory traditions described here.

Three theoretical strands underlie this research project and the intervention under study. From conflict theory, a theory of community change based in nonviolent social action and a theory of individual change based on conflict resolution founded the community justice model and the community mediation movement. Similarly, social disorder theory led to a community change theory of collective efficacy and a theory of individual change based in informal social control, each of which informed the community justice model and early community mediation centers. Finally, a symbolic interactionist view of violence as a situated transaction supports use of early intervention strategies like community mediation to prevent escalation of violence over time in

interpersonal relationships. Each of these theories informs the methodological decisions described in the following chapter, including design and analytic choices.

## Chapter 4: Method

### Purpose, Goals, and Research Questions

This dissertation consisted of mixed method research into whether, in what cases, and how the use of community-based mediation diversion can reduce recidivism in misdemeanor assault cases. The following research questions guided this study:

**Research question 1** [quantitative]: Among criminal misdemeanor cases in Maryland District Court, does community-based mediation prevent return to court after six months, versus the usual court process?

**Research Question 2** [quantitative]: Which case-level characteristics (if any) are associated with a reduction in violence following community-based mediation?

**Research Question 3** [qualitative]: How do mediation participants perceive the impact of the experience of criminal court-referred mediation on their inclination to use violence?

Given the findings from research questions one and two, additional follow-up questions were added:

**Research Question 4** [quantitative]: What case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?

**Research Question 5a** [quantitative]: With assaults between couples excluded, how did the return to court differ between misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment?

**Research Question 5b** [quantitative]: With assaults between couples excluded, how did the return to court differ between all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment?

### **Design**

This mixed method research included secondary data analysis of a longitudinal quasi-experimental comparison group study examining return to court among those involved with a criminal misdemeanor assault case in Maryland. A treatment group that received mediation services in a rural/suburban county in Maryland was compared against a comparison group whose cases received the usual treatment in a similar neighboring county where mediation is not offered. Open-ended qualitative interviews about the mediation process and its ability to affect use of violence (or not) were also conducted within four other Maryland jurisdictions with participants whose assault II cases were diverted to mediation. Given the scarcity of research on community-based mediation and violence, a qualitative component was merited to build knowledge and theory inductively, and to guide future studies (Maxwell, 2012). Through this mixed method approach, qualitative findings also helped to understand and interpret early quantitative findings in this small local study (Creswell & Plano-Clark, 2018).

This mixed method study employed parallel convergent design, with qualitative data being gathered during the same timeframe as the quantitative secondary analysis (Creswell & Plano-Clark, 2018). Results of both the qualitative and quantitative data have been interpreted separately, each informing the analysis of the other, with findings compared graphically and in a narrative. Rigor was supported by triangulation, interviewees, practitioners, and research peers reviewing and reacting to a summary of

both qualitative and quantitative findings. In Table 1 below, the study is summarized by research question.

**Table 1**

*Overview of Research Questions*

Question	Sample	Procedure	Analysis
<b>Initial Research Questions</b>			
<b>RQ1:</b> Among misdemeanor assault cases in district court, does community-based mediation prevent return to court between participants after six months, versus the usual process (prosecution, stet, nolle prose)?	$n = 69$ parties to assault II cases using mediation  $n = 93$ parties to assault II cases whose cases were treated as usual	Secondary data analysis of a study involving: 1. Brief phone survey of participants following mediation or trial 2. 3mos follow up phone survey 3. Review of court files at 6 & 12mos	Logistic regression analysis using Inverse Proportion of Treatment Weighting
<b>RQ2:</b> Which case-level characteristics (if any) are associated with a reduction in return to court following community-based mediation?			
<b>RQ3:</b> How do mediation participants perceive the impact of the experience of criminal court-referred mediation on their inclination to use violence?	19 mediation participants	Semi-structured interviews	Thematic analysis using open coding



**Table 1 continued**

Question	Sample	Procedure	Analysis
<b>Added following analysis of RQ1 &amp; 2</b>			
<b>RQ4:</b> What case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?	8 cases who used mediation and returned to court	Secondary data analysis of a study involving:	Chart of descriptive data
<b>RQ5a:</b> With assaults between couples excluded, how would the return to court differ between misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment;	<i>n</i> = 69 parties to assault II cases using mediation <i>n</i> = 93 parties to assault II cases whose cases were treated as usual	4. Brief phone survey of participants following mediation or trial 5. 3mos follow up phone survey	Cross-tabulations
<b>RQ5b:</b> With assaults between couples excluded, how would the return to court differ between and all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment?	<i>n</i> = 80 parties to assault II cases using mediation <i>n</i> = 138 parties to assault II cases whose cases were treated as usual	Review of court case disposition at 6mos	Cross-tabulations

For the original data collection that produced the secondary data that was analyzed for questions one and two, 69 participants receiving mediation, and 93 participants not receiving mediation were surveyed by phone immediately following intervention, and again after three months, with case review at six and twelve months. In this secondary data analysis, results were examined using logistic regression analysis with inverse proportion of treatment weighting. For question three, nineteen semi-

structured qualitative interviews with mediation participants were conducted and interpreted using thematic analysis. In questions four and five, the same secondary data was used to describe the case characteristics of assault recidivists who used mediation, and to chart the long-term outcomes of both assault cases and all cases when couples with assault charges are removed.

## **Sample**

### **Quantitative Sample**

Participants in the treatment group were parties to criminal misdemeanor violence cases in District court in a suburban and rural Maryland county who were diverted by the local Office of the State's Attorney to mediation. Participants in the comparison group were parties to criminal misdemeanor violence cases in a similar neighboring jurisdiction whose cases were handled as usual, since the jurisdiction does not offer mediation. In both groups, eligibility inclusion criteria included: some past relationship between participants; court charges including misdemeanor violence (assault II); no prior felonies and no more than one prior misdemeanor charge; and participant age of 18 years or older. Exclusion criteria included: defendant with a prior felony conviction or multiple misdemeanor charges; charges for weapons, drugs, violation of ex parte, or anything more serious than 2<sup>nd</sup> degree assault; active ex parte order or custody case; incident between one defendant and police, between strangers, or resulting in visible injuries. The sample included 69 members of the treatment group using mediation services, and 93 comparison group members whose assault II cases were prosecuted or treated as usual, for a total of 162.

## **Qualitative Sample**

Nineteen participants in community-based mediation referred by the state's attorney's office as diversion of criminal misdemeanor violence (assault II) cases in four Maryland jurisdictions (three rural/suburban and one urban) were interviewed. The city and counties represented were the only jurisdictions in Maryland in which the community mediation center was receiving more than 1-3 criminal misdemeanor referrals from district court per year in 2018-20 (in one additional county receiving 3 cases last year, all misdemeanor referrals were reviewed for inclusion in the study and none were eligible). Eligible participants were: not spouses or partners, 18 years old or older, referred to mediation by the state's attorney's office, and party to a misdemeanor assault case. The sample size was determined based on feasibility, including: the mediation centers' eligible caseloads (84 criminal court referred cases were estimated to have been mediated statewide in the 2017-18 state performance year); the study timeline; other dissertations interviewing mediation participants (see Diamond, 2006,  $n=9$ ; Janz, 2001,  $n=11$ ; Pincock, 2011,  $n=19$ ); and literature reviews on qualitative sampling (Boddy, 2016; Vasileiou, et al., 2018).

## **Procedure**

All study procedures were approved by the University of Maryland, Baltimore's Institutional Review Board. The study was also granted a Certificate of Confidentiality by the National Institutes of Health.

## **Quantitative Procedure**

Study procedures for the original research on which the quantitative dataset is based can be found in earlier publications (Charkoudian, Walters, Harmon-Darrow,

Bernstein, under review; Maryland Judiciary Court Operations, 2016). The dataset was requested from the Program Director for Research and Analysis in the Maryland Judiciary's Administrative Office of the Courts in April 2020, and a de-identified version was emailed by their External Relations department in September 2020.

### **Qualitative Procedure**

Interview participants were recruited by staff at three community mediation centers (serving seven jurisdictions) in Maryland. Interviews were scheduled for one hour, and lasted between 25 minutes and one hour and 20 minutes. Due to the pandemic reducing both mediations and opportunities for low severity community violence, this was a retrospective study. Cases were pulled from 12/31/20, and recruited in reverse order toward 7/1/18, so the participants received mediation any time from 7/1/18-12/31/20. This retrospective sampling frame had the benefit of leaving plenty of time post-mediation to evaluate whether further violence occurred post-mediation. It had the significant challenge of making it difficult for participants to recall details of their mediation session, or what their mediators had done. One interview was held in person (before the pandemic) and all others were conducted by telephone. Participants were offered a \$25 gift card in recognition of their time and effort.

Voluntariness, self-determination and consent were supported through oral review of a consent form before the interview, including language that participation is voluntary, that participants have a right to withdraw or skip questions, and that there will be no repercussions for non-participation with the courts or mediation center. Confidentiality was supported through: use of pseudonyms; separate servers for contact information and transcripts; use of password protected databases, on servers maintained behind a firewall;

use of a professional transcription service using password and firewall-protected data-handling; and only sending case files through a file transfer service using encryption. No information about study enrollment was shared with the community mediation centers' partners in their local state's attorney's offices. Confidentiality protections were explained to participants.

## **Measures**

### **Quantitative Measures**

In the dataset built from case file review and phone surveys, a variety of individual, neighborhood, and case characteristics were measured, in addition to the respondents' attitudes toward conflict, and court recidivism at six months.

#### ***Attitudes Toward Conflict***

A brief measure of attitudes toward conflict used in studies of Maryland court-based mediation was included in the baseline and follow-up survey (see Appendix A), in order to control for the degree to which participants are hopeful, open and willing to resolve conflict (Maryland Judiciary Court Operations, 2015a; Maryland Judiciary Court Operations, 2015b; Maryland Judiciary Court Operations, 2016). The measure contains 12 items, scored on a 5-point Likert-type scale from strongly agree to strongly disagree. Sample questions include: "it's important for me to have a positive relationship with the other person/people involved in the issues that brought me to mediation/court today"; "I feel like I have no control over what happens in the issues that brought me to mediation/court"; and "in general, conflict is a negative thing." The internal reliability and validity of this measure has not yet been studied, though it has been used in numerous studies of mediation services. A common critique of studies of voluntary

mediation services is that sessions are only successful because they attract self-selecting participants who were already inclined toward mediation and toward resolution of the conflict. Inclusion of this data served first as control variable, then as a weighting variable, to allow a more accurate measure of treatment effect (see Hermann, 2006; Maryland Judiciary Court Operations, 2015a) and to reduce the impact of selection bias.

Two summary variables were created from these survey responses. The first, Hopeless Win-Lose attitude, was a sum of five of the more negative, hopeless, and win-lose attitudes on the list: “It doesn’t seem to make any difference what I do in regard to the issues that led to these charges, it’ll just remain the same”; “The other person/people need to learn that they are wrong in the issues that led to these charges”; and “In general, conflict is a negative thing”; “I feel like I have no control over what happens in the issues that led to these charges”; and “The other person/people involved in the issues that led to these charges want the exact opposite of what I want.” These items together have a Cronbach’s alpha of .648, showing good internal reliability. The second summative variable, Hopeful Win-Win attitude, is a sum of five of the more positive, hopeful, win-win attitudes on the list: “It’s important that I understand what the other person/people want in the issues that led to these charges”; “I can talk about my concerns to the person/people involved in the issues led to these charges”; “It’s important that the other person/people get their needs met in the issues that led to these charges”; and “It’s important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.” These five items together show good internal reliability with a Cronbach’s alpha of .751.

### *Case Characteristics*

From the baseline survey and case file review, the following case characteristics were included in the dataset, and each survey variable represents the average of the responses of all participants' responses in the case: number of mediation sessions; whether agreement was reached in mediation; whether the case was filed via a court commissioner, at a police station, or through police arrest; whether the case was cross-charged (both participants filing charges against each other); whether an attorney was present in mediation; length of the participants' relationship in months; length of the current conflict/issues in months; whether the participants have had prior conversations; whether anyone called the police; number of times police were called; number of assault charges; whether the defendant was arrested.

### ***Participant Relationship***

A question on the nature of the relationship between the participants included the following choices: friend, boyfriend, ex-boyfriend, spouse, ex-spouse, co-parent, parent-child, other family, former employer-employee, neighbor, roommate, stranger, landlord, customer-business, other relationship. Each option was dummy coded into a binary variable. For this study, a new binary variable was created called "Ever a Couple" combining boyfriend, ex-boyfriend, spouses, divorced, and co-parents.

### ***Court Outcomes and Recidivism***

Binary variables tracking short-term case outcomes in District court criminal misdemeanor assault included: *nolle prosequi* (charges being dropped); jury trial prayed (defense requesting a Circuit Court jury trial); and supervised probation or jail. Binary variables tracking long-term outcomes include: Return to civil court within 6 months,

return to criminal court within 6 months; return to either Civil or Criminal court within 6 months.

### **Qualitative Measures**

In the qualitative interviews, general prompts about violence and the mediation service were used, toward the goal of gaining participant-driven insight into whether and how community mediation affected their choice to use violence (RQ3). Interview content was semi-structured in advance, using a short list of core questions, and corresponding prompts (see Appendix B). However, in keeping with the inductive goals of this qualitative component of the dissertation study, the interview questions were expanded following the first few interviews based on issues raised by participants (Knox & Burkard, 2009; Kvale, 1996). Questions included: (1) Can you tell me what the mediation was like? (2) What was your conflict like in the months before the mediation? (3) What was your conflict like in the months after the mediation? (4) Can you describe violence between you and the other participant in the months before the mediation? (5) Can you describe violence between you and the other mediation participant(s) in the months after the mediation? (6) Did the mediation affect whether violence happened afterward? (7) How did you decide whether to use mediation?

After the first few interviews, additional prompts were sometimes added after the final question including: (a) Tell me about whether violence could have happened afterward? (b) Why do you think there was/wasn't violence afterward? (c) What do you think would have happened in court if you had not used mediation? (d) Would it have been just as good to go to court or was it better to use mediation? (e) If a close friend had a court case like yours what would you tell them about mediation? The revised semi-



structured interview guide is attached as Appendix B and includes possible follow-up prompts for each question. In addition, an interview memo form was completed immediately after each interview by the interviewer. The memo includes questions about the participant's mood, demeanor, nonverbal communication, the setting, notes on the interviewer's own strengths and areas for growth, and ideas for follow up (see Appendix C).

## **Analysis**

### **Quantitative Analyses**

For the quantitative research questions (RQ1 & RQ2), univariate descriptive data, bivariate analyses including t-tests and chi-square analyses, logistic regression, and logistic regression using inverse proportion of treatment weighting were conducted. Bivariate tests compare treatment group and recidivism, and compare each control variable against the independent and dependent variable, and were conducted in SPSS version 24 (IBM, 2016).

Use of logistic regression was selected to examine the association of an independent variable of treatment group to a dependent variable of return to court at six months, controlling for participants' attitudes and case characteristics (relationship type). To address concerns about selection bias in a quasi-experimental evaluation of a voluntary intervention, inverse probability of treatment weighting (IPTW) was employed, using propensity scores to estimate causal treatment effects. IPTW is appropriate for studies such as this one where small sample size makes loss of cases through propensity score matching problematic (Austin & Stuart, 2015; Harder, Stuart & Anthony, 2010;

Thoemmes & Kim, 2011; Thoemmes & Ong, 2016). Logistic regression and inverse proportion of treatment weighting were conducted in Stata 14 (StataCorp, 2015).

Because secondary data were used, no *a priori* power analysis was conducted. A *post hoc* power analysis using G\*Power software (Faul, Erdfelder, Lang, & Buchner, 2007), assuming logistic regression to detect a moderate effect size of a 1.3 odds ratio, an error probability of  $\alpha = 0.05$ , and three predictors with a sample size of 162 yielded power of 0.37, indicating that the analysis is underpowered.

### **Qualitative Analyses**

Each interview was recorded, transcribed using Rev.com, and analyzed for themes within and across respondents. Open coding, and grouping codes into themes was accomplished using NVivo qualitative data analysis software, version 12 (NVivo 12, 2018). Initially 141 codes were created and adjusted throughout the open-coding of the nineteen interviews. These were collapsed into seventeen key ideas within three themes, and a codebook table for these was developed. A table of the interview participants' case characteristics was prepared as a snapshot of the participants' relationships, conflict types, case outcomes, and experience of violence. Recordings, transcripts, and contact information were guarded by use of a password- and firewall-protected server, and case information was transmitted from local community mediation centers using Accellion, a password-protected file transfer service.

### **Integration and Validation of Findings**

At the conclusion of initial quantitative and qualitative analyses, findings and draft recommendations were put before study contributors, peers and local experts toward the goals of inclusive dialogue and validation, to build trustworthiness (Creswell &

Plano-Clark, 2018; Padgett, 2016). The following methods were used: (1) participant member-checking of thematic analysis; (2) peer review by a qualitative researcher; and (3) expert review by community mediators, community mediation center case managers and center directors, and attorneys in criminal court. For member-checking, interviewees were emailed a summary of themes and key ideas with illustrative quotes and asked for feedback within ten days of receipt. When both participants in a conflict were interviewed, the other participant's quotes were eliminated from the summary document sent. For peer review, two presentations of preliminary findings were held by videoconference in January 2021: one with a fellow qualitative researcher and one with ten community mediators from three centers (serving seven jurisdictions), including mediation center intake staff and two mediation center directors. A public defender gave feedback via email. In each of these cases, a brief power point presentation format was used to summarize quantitative and qualitative results and present draft implications, attached as Appendix D.

This mixed-method study used a parallel convergent design (Creswell & Plano-Clark, 2018). To integrate the findings of the qualitative and quantitative data, a matrix was created that compares and contrasts major themes from the interviews with the quantitative findings, and both were interpreted together with respect to implications for theory, practice, management, education, policy, and research. Participants, peers and experts assisted with further integration.

## **Chapter 5: Results**

Findings from all three stages of the study are presented in Chapter 5. First, addressing research questions one, two, four and five, the quantitative analyses are described, with univariate summary statistics, bivariate analyses, logistic regression, and logistic regression with inverse proportion of treatment weighting. Second, the analysis of the qualitative interviews is presented according to common themes among respondents. Third, the integration of findings is described.

### **Quantitative Findings**

#### **Univariate Summary Statistics**

After isolating the cases with Assault II charges from the Maryland Judiciary dataset of their comparison group study of District Court criminal misdemeanor cases, 162 cases remained. Of those, 69, or 42.6% had been mediated, and 93 or 57.4% were members of the comparison group, whose cases had been treated as usual. In these cases, treatment as usual includes not only prosecuting the case, but in many cases dropping the charges, or sometimes “stetting” or pausing the case for fulfilment of terms (such as repayment of money stolen) for a period of time. Detailed case characteristics were included, and no participant demographics were present in the dataset. In this dataset, the unit of analysis is a case, so for the survey variables regarding participant relationships or attitudes, the data is an average of the two or more participants’ views. Univariate results are presented in Table 2.

#### ***Participant Relationships and Attitudes***

Participants had known each other a long time, with an average of over 135 months or 11 years, a standard deviation of 160 months or 13 years, and ranging from

zero to 792 months or 66 years. The conflicts or issues underlying the assault case had gone on for an average of just under two years, with a standard deviation of 57 months or five years, and ranging from zero to 40 years. In 45.1% of cases, participants had had prior conversations with each other about the case. Over half (51.3%) of the sample were a current or past couple, including: 17.5% spouses, as well as current or ex-girl-/boyfriend, co-parents, or divorcees. Parents and their grown children made up another 7.5% of the cases, 3.8% were neighbors, 6.9% were strangers prior to the assault, and 1.3% worked together or had business dealings. Of note among the variables related to participant attitudes before the mediation or court date, participants agreed most strongly on average with wanting their own needs met in court or mediation, and disagreed most strongly with believing they can talk things through with the other participant.

### ***Case Characteristics***

A majority of cases originated when the participants went to the court commissioner's office and filed charges (65.9%), rather than through police arrest (27.8%) or at the police station (6.3%). About a third were cross-charged, with each participant filing charges against each other, and this percentage was much higher among treatment cases. Attorneys for the defense were present in 58.6% of cases. Police had been called in 67.9% of the cases, and the defendant had been arrested in 28.7% of the cases.

### ***Short-term Case Outcomes***

Short-term case outcomes for these misdemeanor cases were available for 154 of the cases, and in 76.3%, charges were dropped, which is called *nolle prosequi* or, informally, "nolle prossed". On the question of what might have happened to cases had

they not been mediated, which is also discussed in the qualitative analysis, 63.1% of comparison group unmediated cases were nolle prossed, with the prosecutor recommending charges be dropped, and 92.6% of mediated cases were nolle prossed, which is slightly higher than the 87.0% of cases which reached agreement. This means that in a number of cases, participants who were not able to come to agreement in mediation had their cases dropped anyway. In 9.7% of cases a jury trial was prayed, or requested by the defense attorney, and the case was sent to higher court, and in 7.9% of the cases defendants received supervised probation or jail.

### ***Return to Court***

The dependent variable is return to court, or court recidivism: whether parties to assault cases returned to court for other matters following resolution of their initial case in the subsequent six months. Rates of court recidivism were low, with 8.6% returning for a civil case filed by themselves or someone else, 6.2% returning to court for criminal charges by the state, and a combined 10.5% returning to either civil or criminal court, including some who returned to both civil and criminal court.

### ***Mediation Services***

Members of the treatment group receiving mediation services had participated in between one and ten mediation sessions, with an average of 1.68 sessions, and 87% had reached an agreement in mediation.

**Table 2***Summary Statistics for Assault II Cases by Case*

Variable Name	N	Freq.	Percent	Range	Mean (SD)
Mediated	162	69	42.6%		
Comparison	162	93	57.4%		
<b><i>Case Characteristics</i></b>					
Number of Mediation Sessions	69			0 to 10	1.68 (1.39)
Agreement Reached in Mediation	69	60	87.0%		
Case Filed via Court Commissioner	126	83	65.9%		
Case Filed via PS	126	8	6.3%		
Case filed via Police Arrest	126	35	27.8%		
Cross-Charged	162	55	34.0%		
Attorney Present	161	95	58.6%		
Length of Relationship (mos)*	155			0 to 792	135.13 (159.84)
Length of Conflict (mos)*	154			0 to 480	22.85 (56.84)
Prior Conversations*	161	73	45.1%		
Police Called*	134	110	67.9%		
# of Police calls*	133			0 to 21	2.39 (3.01)
# Assault II charges	162			1 to 6	1.32 (0.67)
Defendant Arrested	157	45	28.7%		
<b><i>Participants' Relationship</i></b>					
Ever a Couple*	160	82	51.3%		
Spouses*	160	28	17.5%		
Parent/child*	160	12	7.5%		
Friends*	160	20	12.5%		
Neighbors*	160	6	3.8%		
Strangers*	160	11	6.9%		
Business or coworker*	160	2	1.3%		

**Table 2 continued**

Variable Name	N	Freq.	Percent	Range	Mean (SD)
<i>Participants' Attitudes</i>					
Number of Ways*	161			1 to 5	4.05 (1.05)
Importance of my Needs*	160			1 to 5	4.32 (0.70)
Understanding Other*	160			1 to 5	3.78 (1.13)
Learn they're Wrong*	160			1 to 5	4.21 (0.85)
Importance of their Needs*	160			1 to 5	3.56 (1.13)
Importance of Positive Relationship*	160			1 to 5	3.43 (1.13)
No Control*	159			1 to 5	3.55 (1.06)
Opposite wants*	159			1 to 5	3.06 (1.08)
Can talk*	160			1 to 5	2.80 (1.38)
No impact *	160			1 to 5	3.24 (1.13)
Conflict is negative *	159			1 to 5	4.09 (0.75)
Hopeless/Win-Lose*	157			5 to 25	18.09 (3.16)
Hopeless/Win-Win*	160			5 to 25	17.62 (4.40)
<i>Short- and Long-term Case Outcomes</i>					
Nolle Prosequi	152	116	76.3%		
Jury Trial Prayed	154	15	9.7%		
Supervised Probation or Jail	152	12	7.9%		
Resulted in Record	152	12	7.9%		
Civil Return 6 months	162	14	8.6%		
Criminal Return 6 months	162	10	6.2%		
Civil or Criminal Return 6 months	162	17	10.5%		

*Note.* \*Items based on self-report survey data, where the unit of analysis is the case, and any participants' responses that differ are averaged (and for categorical variables among these, any response is included).



## **Bivariate analyses**

### ***Comparing Case Characteristics with Membership in the Treatment or Comparison Group***

First, case characteristics including length of conflict, participant attitudes, participant relationships and return to court were compared against membership in the treatment or comparison group, and are presented in Table 3. Missing data prevented use of the important potential predictors related to police calls. These analyses (along with single predictor logistic regressions on group membership described later) informed an exploration of possible selection bias, a threat to all quasi-experimental evaluations of interventions that are voluntary (Fraser, et al., 2009; Melnyk & Morrison-Beedy, 2012; Shadish, Cook & Campbell, 2002). T-tests were performed comparing continuous variables of conflict length and attitudes against the binary treatment group variable. Chi-square tests were used to compare binary variables of couplehood and the dependent variable of return to court with treatment group membership. Couples comprised half the sample of assault II cases, and represented a larger proportion of cases receiving the usual court process than of cases receiving mediation. Conflicts or issues between participants were generally an average of two years long in both groups. Only around a tenth of cases returned to court, and this was similar across mediated and unmediated cases. None of the bivariate analyses were statistically significant.

**Table 3***Bivariate analyses of assault II cases receiving mediation and the usual court process*

	<b>Entire Sample</b> ( <i>N</i> = 162)	<b>Received Mediation</b> ( <i>n</i> = 69)	<b>Received Usual Court Process</b> ( <i>n</i> = 93)	<b>T-test and Chi-square results</b>	
	Mean (SD)	Mean (SD)	Mean (SD)	<i>t</i>	<i>p</i>
Length of conflict (mos)	22.8 (56.8)	23.1 (50.4)	22.6 (61.8)	-.480	.632
Hopeless win-lose attitude	18.1 (3.2)	19.2 (3.0)	16.6 (2.8)	1.867	.064
	n (%)	n (%)	n (%)	$\chi^2$	<i>p</i>
Ever a couple	82 (51.3)	30 (43.5)	52 (57.1)	2.933	.087
Returned to court in 6mos	17 (10.5)	7 (10.1)	10 (10.8)	.016	.901

***Comparing Case Characteristics with Return to Court***

Next, case characteristics including length of conflict, participant attitudes, and participant relationships were compared against the study's dependent variable of return to civil or criminal court in the six months following resolution of their case (Table 4). Again, T-tests were performed comparing continuous variables of conflict length and attitudes against the binary return to court variable. Cross tabulation and a chi-square test were used to compare the binary variable of couplehood with the dependent variable of return to court. Again, all chi-square and t-test results were not statistically significant.

**Table 4***Bivariate analyses of return to court within six months for assault II cases*

	<b>Entire sample</b> ( <i>n</i> = 162)	<b>Did not return to court within 6 mos</b> ( <i>n</i> = 145)	<b>Returned to court within 6 mos</b> ( <i>n</i> = 17)	<b>T-test and chi-square results</b>	
	Mean (SD)	Mean (SD)	Mean (SD)	<i>t</i>	<i>p</i>
Length of conflict (mos)	22.8 (56.8)	23.1 (59.3)	20.8 (31.5)	.157	.875
Hopeless win-lose attitude	18.1 (3.2)	17.9 (3.2)	19.4 (3.0)	-1.702	.091
	n (%)	n (%)	n (%)	$\chi^2$	<i>p</i>
Ever a couple	82 (51.3)	70 (49.0)	12 (70.6)	2.847	.092

**Logistic Regression**

The results of a logistic regression analysis examining the influence of use of mediation and case characteristics on return to court are presented in Table 5. The global test statistic was not significant ( $\chi^2 = 7.944$ ,  $R^2 = .104$ ,  $p = .094$ ), indicating that the model including these covariates is no better an explanation of the risk of return to court than a null model that does not include covariates. The independent variable of receiving mediation was not a statistically significant predictor of returning to court, and the length of the conflict was not a statistically significant predictor of returning to court.

**Table 5**

*Logistic regression of criminal and civil return to court at six months on case treatment, controlling for length of relationship, participants' attitudes and couplehood*

	B	S.E.	Wald	p	OR	95% CI OR	
						LL	UL
Received mediation	.842	.669	1.585	.208	2.320	.626	8.601
Length of conflict	-.005	.007	.584	.445	.995	.982	1.008
Hopeless win-lose attitude	.249	.115	4.710	.030	1.283	1.024	1.607
Ever a couple	1.259	.615	4.187	.041	3.520	1.055	11.752
Constant	-7.801	2.510	9.657	.002	.000		

Note. Omnibus test of model coefficients: chi-square 7.944,  $p = .094$ ,  $R^2 = .104$ . OR = odds ratio; CI = confidence interval; LL = lower limit; UL = upper limit.

### **Logistic Regression with Inverse Proportion of Treatment Weighting**

Inverse proportion of treatment weighting was used to make a closer examination of the non-equivalent treatment and comparison groups, and to reduce the influence of selection bias. To prepare for inverse proportion of treatment weighting, covariates were first tested by regressing the candidate variables on the independent variable of treatment, having used mediation services, through bivariate logistic regression. Nonsignificant covariates included the length of the conflict/issues and the length of the relationship. Significant covariates included whether anyone called the police, cross charges, and participants' hopeless win-lose attitude, indicating there is an imbalance in the treatment and comparison groups with respect to the representation of participants with these characteristics. Because the "ever a couple" variable was nearly significant, component variables of spouses, divorces, co-parents, boyfriend and ex-boyfriend were each tested.

Of those, spouses and boy/girlfriend were statistically significant predictors of being a member of the treatment group.

Propensity scores were created by regressing the independent variable of treatment on each of the significant covariates to be weighted. Weights were then created, such that the treatment group was weighted with  $1/p$  and the comparison group with  $1/(1-p)$ , where  $p$  stands for propensity score. Weights were truncated at the 5<sup>th</sup> and 95<sup>th</sup> percentiles, meaning that all values below the 5% cutoff were replaced with the 5<sup>th</sup> percentile value (1.05), and all values above the 95% cutoff were replaced with the 95<sup>th</sup> percentile value (5.60).

**Table 6**

*Descriptive statistics for propensity score weights, before and after truncation*

	Obs	Mean	Std. Dev.	Min	Max
Truncated propensity score weights	132	1.870	1.133	1.051	5.598
Propensity score weights prior to truncation	132	1.980	1.600	1.035	11.251

Balance was re-assessed after weighting by regressing each weighted predictor on the IV one by one using bivariate logistic regression as described above, and all relationships were nonsignificant, meaning equivalence in the chosen variables was achieved between groups. Finally, the main analysis, logistic regression using the dependent variable of return to court, was re-run using weights, and results again showed a non-significant relationship between use of mediation and return to court (Table 7).

**Table 7***Logistic Regression Using Inverse Proportion of Treatment Weights*

	OR	SE	z	P> z	[95% Conf. Interval]	
Received Mediation	1.183475	.7501866	0.27	0.790	.3416611	4.099422
constant	.0771779	.0293613	-6.73	0.000	.0366155	.1626751

*Note.* Number of observations = 132, Wald  $\chi^2(1) = 0.07$ , Prob >  $\chi^2 = 0.7904$ , pseudo  $R^2 = 0.0009$ . OR = Odds Ratio; SE = standard error.

### **What Types of Misdemeanor Assault Cases Recidivated after Mediation?**

Given the divergence of many of these findings regarding misdemeanor assault cases from the findings of the research on the full dataset (Maryland Judiciary, 2016) of all misdemeanor charges (presented in chapter 2), a new research question was added: what case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases [RQ4]? In other words, what types of cases recidivated after mediation? Descriptive information about the cases that returned to court after mediation is presented in Table 9.

Of the eight mediated cases that returned to court within the year following mediation, seven were current or former couples. New civil cases filed were domestic violence protective orders in four cases, as well as a paternity suit, a peace order, and replevin (seeking return of property), and criminal cases included both Assault II and violations of ex partes (temporary restraining orders). In three of those seven cases, divorce or custody cases had been filed in the year after mediation. Six of the seven couples had reached agreement in their mediation. Before mediation, the police had been called in all cases with data, ranging from 1 to 12 times, and with the first police call happening anywhere from zero to thirty months before the mediation.

**Table 8**

Assault II cases that received mediation and returned to court

Case	Survey pre-mediation			Court records review 12mos post-mediation		
	Were they ever a couple?	# times police called*	Agreement?	Civil court	Criminal court	Family court
1	x	5	x	Protective Order DV	Other	Filed for Custody
2	x	1	x	Protective Order DV	Violation of Ex Parte	Filed for Divorce
3	x	2	x	Protective Order DV	Second Degree Assault	
4	x	2		Paternity Suit	Second Degree Assault	
5	0	12.25	x	Peace Order, other tort, other equitable relief		
6	x	1		Replevin		
7	x	1.75	x	Protective Order DV	Violation of Ex Parte & Arson/Threat	Filed for Custody
8	x	3	x	<i>Protective Order DV</i>		

*Note.* \*To create the case-level dataset, pre-mediation/court survey responses were averaged between both (or all) participants.

### **How is Return to Court Affected if Couples with Assault Charges are Excluded?**

Given the descriptive findings from RQ4, a fifth research question was added: if couples with assault charges were excluded, how would the return to court differ between [RQ5a] misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment; and [RQ5b] all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment? With the

removal of couples with assault charges, the number of recidivists was too low to sustain bivariate or multivariate analyses, so crosstabulations are presented below and in Table 9.

***Recidivism Among Assault Cases Without Couples***

To review the proportions presented above in Table 5, among all assault cases (n=162), 10.5% of cases returned to court, including 10.1% of mediated cases, and 10.8% of cases receiving the usual court process. Among non-couples with assault cases (n=79), 5.1% returned to court, including 2.6% of mediated cases, compared with 7.3% of cases which received the usual court process.

***Recidivism Among All Misdemeanor Cases Without Assault Between Couples***

Lastly, RQ5b asks whether return to court among all misdemeanor cases would be affected by screening out current and former couples with assault charges. After excluding couples with assault charges, the rate of returning to civil or criminal court remains about the same (11%) for cases with all charges receiving the usual court process ( $n = 137$  and  $n = 85$  without couple assaults), and drops from 10% to 6% for cases with all charges receiving mediation ( $n = 80$  and  $n = 50$  without couple assaults).



**Table 9***Recidivism among all misdemeanor cases without couples with assault charges*

	All Cases			All Cases Except Couples with Assault Charges		
	Returned to Court in 6mos	Did not return to court in 6mos	Total	Returned to Court in 6mos	Did not return to court in 6mos	Total
# Receiving Usual Court Process	121	16	137	76	9	85
% Receiving Usual Court Process	88.3%	11.7%	100.0%	89.4%	10.6%	100.0%
# Receiving Mediation	72	8	80	47	3	50
% Receiving Mediation	90.0%	10.0%	100.0%	94.0%	6.0%	100.0%
Total #	193	24	217	123	12	135
Total %	88.9%	11.1%	100.0%	91.1%	8.9%	100.0%

To summarize the quantitative findings on research questions one through five, in cases of misdemeanor assault in Maryland District Court, mediated cases were not significantly less likely to return to court than those in a neighboring county which were treated as usual. Mediated cases that returned to court were nearly all current or former couples. Had couples with assault charges been excluded from receiving mediation, only one mediated assault case would have returned to court, and among all misdemeanor cases, recidivism would have been reduced by nearly half.

## **Qualitative Findings**

The findings from nineteen semi-structured qualitative interviews on mediation and violence are presented here, beginning with a sample description, case summary, and list of themes and key ideas, and continuing to a detailed exploration of each of three themes on the justice system, the experience of criminal court-referred mediation, and outcomes. Throughout this section, study respondents or interviewees are referred to as “contributors” to avoid confusion with the word “participants” which is used here and commonly to describe parties to community-based mediation. Pseudonyms are used, and in several cases the contributors chose their own.

### **Sample**

The contributors to this study were recruited by three community mediation centers, with thirteen from Baltimore City and six from four counties of Maryland’s Eastern Shore.

Eligible contributors were adults, not intimate partners, and parties to mediation for criminal court-referred cases of misdemeanor assault between 7/1/18 and 12/31/20, and nineteen interviews were conducted. The cases that study contributors were involved with were diverse with respect to participant relationships, conflict types, conflict settings, referral source, police involvement, cross-charging, mediation outcomes, court outcome, and types of assault (see Table 10). Two mediation pairs were interviewed separately, parties to the same court case, and in both cases it was a coworker dispute. In the rest of the cases, one mediation participant was interviewed. So, in these nineteen interviews, seventeen cases are represented.

Contributors were related to the other participants in their mediation in varied ways, with seven co-workers or business associates, three neighbors, two divorcing couples, two friends/acquaintances, three women attending mediation with their partner's ex, and one with a stranger following a road rage incident. Most contributors learned about mediation from a prosecutor, though sometimes from a judge, public defender, or not until receiving a call from the mediation center. The police had been called in nearly every case. Most cases were cross-charged, with each participant pressing assault charges against the other. In four cases, the short-term case outcome was that the other participant in the mediation was convicted, and in thirteen, the charges were dropped. According to their memories, mediations ranged from one seven-minute session to three two-hour sessions, and most completed one session of around two hours. In three cases, the mediation ended early when one party discontinued the session before the process was completed. Eleven of the seventeen cases ended with a written agreement. In a few cases, multiple types of charges were involved, even across multiple jurisdictions in two cases. Nearly all respondents made reference to themselves or the other participant having had other court cases or other mediations in the past.

Nine contributors described assaults that involved physical violence, nine described cases of serious threats or intimidation with a weapon without physical contact, and in one case the two participants did not agree on whether there had been physical violence. No contributor reported further violence, assaults, or court charges with the other participant after the mediation when asked. A summary of contributors and their cases is included below in Table 10.

**Table 10***Summary of qualitative interview cases*

<b>Pseudonym</b>	<b>Relationship</b>	<b>Court Outcome<sup>2</sup></b>	<b>Physical Violence before?</b>	<b>Physical Violence after?</b>
Keisha	Coworkers & mother of boyfriend	Charges dropped*	Yes (jabbed in the face with finger)	No
Jasmine	Neighbors	Other participant lost, 1y probation**	No (false assault charge)	No
Erika	Current wife & Ex-wife	Charges dropped	No (false assault charge)	No
Jack	Business partners	Other participant lost, 3y probation & restraining order**	No (intimidation with a weapon)	No
Nikia	Current girlfriend & Ex-girlfriend	Charges dropped* (against their wishes)	No (spitting)	No
Trina Al	Coworkers	Charges dropped*	No (intimidation with weapon)	No
Ruby	Neighbors	Other participant lost, 30d jail	Yes (beaten up, went to ER)	No
Andrew	Ex-spouses	Charges dropped	Yes (fist fight)	No
Gigi	Son's fiancée	Charges dropped	Yes (fist fight)	No
Henry	Divorcing Spouses	Charges dropped	No	No
Imani	Manager & Employee	Charges dropped*	Yes (fist fight)	No

**Table 10 continued**

<b>Pseudonym</b>	<b>Relationship</b>	<b>Court Outcome</b>	<b>Physical Violence before?</b>	<b>Physical Violence after?</b>
Caleb	Strangers	Charges dropped	No (intimidation with a weapon)	No
Regina	Ex-wife & Current partner	Charges dropped*	Yes (threw objects)	No
Tanya	Neighbors	Charges dropped*	No (intimidation with a weapon)	No
Aisha	Acquaintances, Classmates	Charges dropped*	Yes (fist fight)	No
Jerrica	Acquaintances, friend of friend	Other participant lost, Restraining order	No (harassment with violent threats)	No
Lil Bitz	Co-workers & friends	Charges dropped	Yes (punched)	No
Shirley			No (falsely accused)	

*Note.* 1. PD = Public Defender, ASA = Assistant State’s Attorney. 2. \*Each participant had assault charges against the other, known as cross charges. \*\* Each had different charges.

### **Listening for Themes**

Beginning with open-coding transcripts into NVivo, 141 codes were identified. Several codes were left behind, most were grouped into seventeen key ideas within three themes, as displayed below in Table 11. In order to lead into the research question, provide full context, and to work respectfully with respondents who had in many cases been traumatized by violence, these interviews began with questions about their relationship, conflict, and assault with the other mediation participant. Although

contributors spoke longer, in more detail, and with more passion on the escalation of the conflict and the experience of violence or assault, the findings reported here are only those that bear most directly on the research question about criminal court-referred mediation's ability to reduce violence.

Contributors spoke on three themes related to the qualitative research question: [RQ4] How do mediation participants perceive the impact of the experience of criminal court-referred mediation on their inclination to use violence? In theme one, the justice system was capable of protection or of escalating the conflict, and in cases involving mutual fights, respondents wanted to cut ties with it. In theme two, mediation could only resolve the conflict if offered safety; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators. In theme three, contributors' case outcomes included no further violence or court charges reported between participants, little interaction, and for some: loss of housing and livelihood, emotional closure, or endings that needed to happen. What follows are contributors' perspectives about using mediation for criminal misdemeanor assault cases, grouped by themes and key ideas.

### **Preview of the Violence and Assault**

The violence and assaults experienced by contributors ranged from violent physical contact to assault by threat and intimidation, including both mutual fights and one-sided attacks. Four contributors asserted that they had been falsely accused. Contributors described escalation and violence that began within the context of positive relationships; involved confusion, emotional and systemic pressures, threats, and in many cases, third-party instigators; and ended with feelings of shame.

**Table 11***Themes and Key Ideas*

Themes	Key Ideas	Description
<b>The Justice System as Protector and Threat</b>		
	Levels of Voluntariness	The process of being referred to mediation, the question of whether using mediation was voluntary, and how they decided whether to attend.
	Challenges of court	Contributors' descriptions of court.
	Protecting Themselves from Charges	Wanting to mediate to make sure I don't go to jail, receive punishment, or have criminal charges on my record.
	Having Mercy on the Other Person	Wanting to mediate to make sure the other participant does not go to jail, receive punishment, or have criminal charges on their record.
<b>Requirements for a Positive Mediation</b>		
	Safety	Participants being insulted, threatened, screamed at in mediation, or generally feeling unsafe
	Free Expression	We were able to express ourselves, vent, tell our story.
	Getting Clarity About the Incident and Taking Responsibility	The mediation or mediators helped clarify the conflict or incident, including who was responsible
	Getting to Solutions	Mediation dealing with the past and never focusing on solutions, making things better, or healing
	Balancing Action and Neutrality	Contributors' views on mediators being inactive, not intervening when the conflict heated up. Pros and cons of mediators being neutral
	Fellow Participants' Willingness and Ability to Mediate	Contributors' thoughts on who can and can't benefit from mediation

**Table 11 continued**

Themes	Key Ideas	Description
Assessment of Outcomes and Their Intersections		
	Interaction after mediation	Whether the participants had interactions after the mediation, and what they were like
	Closure and Endings that Needed to Happen	Sense of relationship ending or closure.
	Impacts on Work or Housing	Short- and long-term effects on contributors' work or housing
	Outcome of the Criminal Charges	Disposition of the court case, and consequences of the charges being dropped or proceeding
	No Violence After Mediation	Lack of violence after mediation and reasons that it did not occur

**Theme 1: The Justice System**

Contributors described the justice system as capable of protection or of worsening the danger and damage of the conflict and assault, and in most cases, contributors were desperate to be out of its reach, especially when the assault was mutual (like a fist fight or spitting match, rather than a one-sided attack). Contributors talked about whether their use of mediation was voluntary, about the challenges of the court process, and about wanting to drop criminal charges to protect themselves or show mercy to the other participant.

The complex array of paths these cases can take through the criminal justice system are summarized in Figure 4, below, to contextualize the ways that criminal court and mediation are connected in addressing the assault and the potential for future



assaults. One striking similarity in eighteen of the nineteen cases was the case's origin, with all criminal justice involvement having been initiated by one of the mediation participants, nearly all of whom later sought mediation to request that the state drop charges in the case. In only one case (Nikia's bar fight) did police appear unbidden. Ten of the seventeen criminal court cases originated in the court commissioner's office, where citizens can swear out and file criminal charges themselves in every county of Maryland (and in Baltimore city this service is available 24 hours a day). This pattern provides an important context for this theme in the contributors' experiences below about the justice system serving as its own character in the escalating conflicts, with participants using it not only for protection, but also to escalate the conflict at certain points, then to de-escalate it later.

### ***Levels of Voluntariness***

The question of degree of voluntariness versus coercion is important in any mediation process, as self-determined voluntary participation is a core value of mediation. In the specific case of criminal court referred mediation this issue is of critical importance because of the danger of further endangering victims of violence by bringing them face to face with their alleged attacker. If mediation is to be used in cases like these, it's important to understand and interrogate whether the service is truly voluntary. In addition, the experience of entering into mediation could have impacts on how the process itself is viewed by participants, how they participate in it, and what they agree to. For example, written mediation agreement terms may not be truly voluntary and consensual if the participants are not there voluntarily, or believe they were coerced into attending.

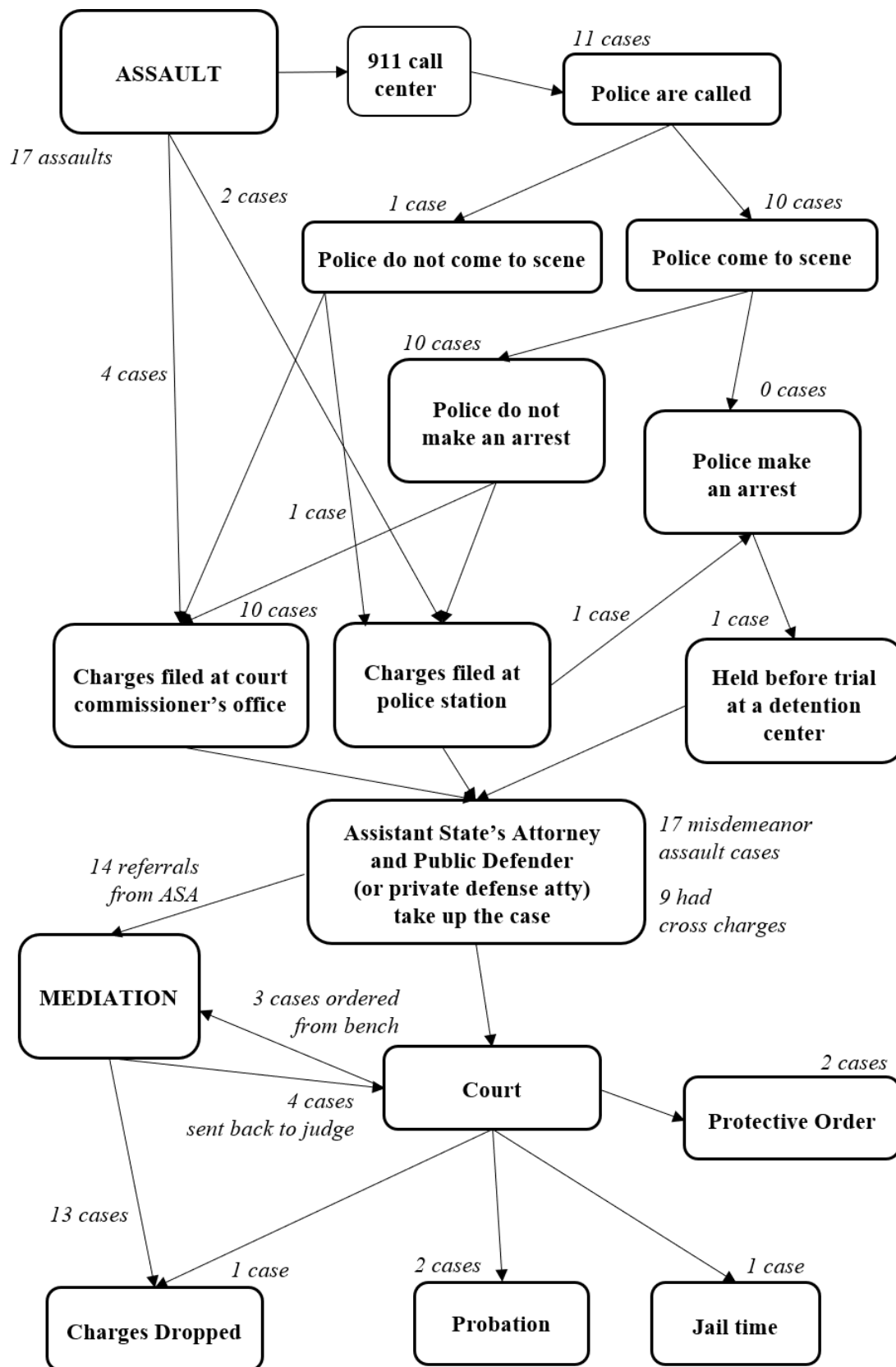


Figure 3. Paths from assault to mediation and court

Once criminal charges were filed following the assault, study contributors had a wide variety of experiences with the process of their criminal case being referred to mediation. Most voluntarily chose mediation, and several did not. Those who had chosen to use mediation generally felt positively about having made that choice, even in the cases where the experience or outcome of mediation had been unsatisfying. Lil Bitz and others thought it would be “the easier way” once they saw what the court process involved. One participant raised the issue of diversion to the Assistant State’s Attorney (ASA) herself, asking if her case could be referred to mediation. Nearly every case referral had some level of pressure from the ASA to accept a referral to mediation, and three cases were perceived by the contributor to be a judge’s order from the bench, with no voluntary choice. Of those who felt they were told they had to use mediation, only one resisted the order and was upset about the referral.

The majority of contributors chose to use mediation and ranged from neutral to proud about having made the choice to talk things out face to face rather than go to trial. In one case, Keisha, who was the victim in her court case, initiated the idea of diverting the criminal case she herself had filed. Due in part to a third-party instigator, she had argued with and been assaulted by a close coworker, who was also the mother of her former boyfriend, and her grandmother’s friend. She said, “I told the lawyer that I want to resolve the issue with her and I. So that's how that came to the mediation. [The lawyer] gave me a pamphlet and I called.”

By contrast, a minority of contributors felt they had been ordered to use mediation. Tanya, Regina, and Ruby believed their case to have been ordered to mediation, with no voluntary choice involved. “The courts did it,” Tanya said, “I didn’t

do nothing. I think the lawyers or whatever, they set it up.” Regina believed the judge sent her to mediation due to lack of defense representation, and the other party’s weak case, saying:

I think that she came because this was her last chance because she had lied in court three times about having a lawyer, so she didn't have no other choice but to do mediation...the judge told her, "You come to court this time, you better bring your lawyer with you," and she never had a lawyer. You get three times before they throw it out. She know that. She's been to court before several times. She knew if she didn't come to court, she had to have proof, which she didn't have proof, but I had a witness of what she did.

Ruby also reported that “I didn't decide for mediation. The court decided mediation.” In Ruby’s case, the judge ordered mediation over Ruby’s very strenuous objections and those of the prosecutor. As detailed below, her fellow participants in mediation took down their pants and threatened to beat her up, and she fled the mediation in fear through a back door. She was again threatened when she returned to the courthouse post-mediation. She believed they were convicted in part because of the judge hearing about the failed mediation on the subsequent trial date. And as will be explored more below, all three went on to have negative experiences of mediation.

A few contributors experienced being pushed out of the trial system, rather than attracted to mediation, and they thought it was based on the weakness or smallness of their case. For them, it was less about being pulled into the potential of mediation and more about being pushed out of the trial they envisioned. Trina thought she was referred to mediation because her assault involved a threat or intimidation with a weapon, not

physical contact. She reflected “it wasn't a big enough case to even be in court. It was just a peace order, and I did take out charges for him picking up that knife, but because he didn't cut me, I guess they were like, ‘Okay. This is nothing. Go into mediation.’” Erika felt she was referred to mediation because the court did not believe the false charges against her from her husband’s ex-wife, saying the court “saw right through it and saw who she was and who I was and who my husband was and figured this should be something that they can handle in mediation.” Jack echoed this thinking: “the prosecuting attorney brought it up in a court case because then you knew that didn't have really a case there, but I was willing to work with them.” In both cases the connection or cooperativeness of the parties played a role in the case being referred to mediation, according to these study contributors.

One contributor referred to the choice to use mediation as related to the coercion of the criminal justice system itself. Figure 4 shows that most (ten of seventeen) of the mediated cases originated at the court commissioner’s office, not with the police. In four of those ten cases, the victim(s) went to file the charges without any police advice to do so. Henry and his then-wife were surprised to learn that victims often do not later have the power to change their mind about assault charges filed, once the state is involved. He said “She filed it. I got a court letter. ... she realized that she shouldn't have done it. She said she would drop it so then she called the state attorney to drop it and I believe he didn't want to drop it.” So the voluntary choice to use mediation in their case was made in the shadow of their lack of choice about the criminal charges.

Overall, most contributors reported that they had chosen to use mediation, and felt good about that choice. The exceptions to this included judge’s orders, a feeling of being

pushed out due to a weak court case, or court perceptions that their conflicts were too small or too personal, and a lack of choice about whether to withdraw charges. As will be explored below, those who did not choose to use mediation had more negative experiences of the service.

### *Challenges of Court*

Some of the District Court processes that contributors experienced made mediation more attractive to parties to Assault II cases, including the hassles of multiple court dates, fear of not being believed or of lies being interpreted as facts, being threatened in court by the other party, and being on display in a publicly-accessible court proceeding.

The hassle of mandatory weekday court dates was mentioned by a few contributors as a motivation for choosing to use mediation, and a benefit of mediation versus court. Keisha wanted to avoid the hassle of multiple court dates. She reported: “I let her know I don't want to keep going back and forth to court due to her personal issues, what I know about her personal issues and my personal issues...She has cancer and she would go to treatment every Wednesday. I'm a single mom and I have two, three jobs. So I can't take off from this job or I'm liable to be fired.” Both family self-preservation and empathy for her fellow case participant motivated her to want a more flexible schedule than court could provide. The fact that her fellow mediation participant was a coworker, her ex-boyfriend's mother, as well as her grandmother's friend may have played a role in the level of empathy she felt as she endured cancer treatment and several court dates at the same time. She talked about the inflexibility of the court dates as a deal-breaker that triggered her to request mediation from the ASA. Jack also talked about being tired of

“time off of work and aggravation” for court dates as he considered whether to use mediation.

Another challenge of the District Court process that was discussed was the win-lose battle that a trial represented. Mediation offered an alternative to both a process and outcome he came to fear as the three trials he was involved in progressed. Jack reflected that mediation:

helped... Something came out of it instead of a bitter court battle where possibly nothing came out of it. It didn't get it dragged out and beat down in the court system. There was a window of opportunity there that didn't exist in the courtroom and the anger and sadness and madness and all that, which is in court. For him, speaking directly with his longtime business partner was preferable, not only because he expected it to be, and found that it was, far less acrimonious, but also because in the end both would leave with something, rather than in court one person losing everything.

Trial expenses were also raised as a reason for using mediation. Andrew, who had a divorce pending when he was beat up by his ex-wife, also complained about the expense of a trial and talked about the attractiveness of using a free community mediation service rather than continuing to pay attorneys. This was an especially sharp point for him, as his ex-wife had family support to pay legal costs while he was paying from his own income. Here again, as with Jack and Keisha, mediation was attractive as an alternative in contrast with the challenges of court, rather than on its own merits.

Multiple contributors talked about choosing mediation due to fears of being lied about in court, and not being able to defend themselves against lies winning the day.

Regina felt she might lose in court based on lies, saying “you know how the courts is. Whoever get there and file charges first are the ones they believe.” Jack too feared the impact of lies in court, saying “I started to realize that there was a lot of lying going on, a lot of mistruths to the police officers ... which I could prove. For instance, ...if at any point in history, there was money missing from the cash register, it would have shown up [in the bank’s deposit log]. That was one big thing that I knew there's a lie there.” Shirley felt that a trial may allow her to be convicted of an assault she did not admit to committing. All three implied that mediation would give them a better opportunity to clear up the matter and for the truth to be heard fully.

In one case, a contributor was threatened and intimidated in court. Ruby was plagued by threats from her neighbors in the courthouse, and being in court felt unsafe:

Because it didn't go right at mediation, they sent it to downtown. And her daughter showed up, who was a part of it. She had more people with her. And it was a scary situation, ... they had threatened me so bad ... They moved them from the hall and put them in a room, and then allowed me to be able to go into court, where I had a guard right there. They watching, guarding over me. And that's how court went. They chased me from the court, her, her granddaughters and everything. It was terrible. It was terrible. It made me sick. I was sick those days. I lost a lot of weight. I was sick.

Ruby did not choose mediation, as mentioned above, but a judge ordered her to use it. In the end (as discussed below) neither an informal mediation nor a courthouse with armed guards could provide her perceived or real safety. The trauma of her experience of the



initial assault, of the courthouse experience, and the mediation all worked together to jeopardize her physical health.

Finally, the public-ness of court was a challenge that caused fear, anxiety, and shame for some contributors. Shirley and Gigi were both from a small city, and particularly reflected that mediation gave them more privacy than court. Shirley said mediation was “probably better than going to a court room with a whole bunch of people.” This was especially important to her since she reported having been falsely accused of assault by her coworker (who was also a longtime neighbor), and she did not want a false narrative about her to be out in public. Gigi was worried about being made a fool of in a trial, since she works with the public and was well-known in town.

The challenges of the court system were major motivators for those who chose mediation and formed a backdrop for the experience of mediation and its outcomes as described below. Contributors’ challenges with rigidly scheduled mandatory workday court dates, their fears of being lied about in court, the dangers of appearing in court with their attacker, and the public display of a trial all worked to make court difficult and to make mediation attractive as an alternative.

### ***Protecting Themselves from Charges***

Contributors were also highly motivated to use mediation because they wanted to avoid criminal charges, whether they had no past charges or past charges that would worsen the consequences of the current charges. This was largely for three reasons: to avoid feared punishment such as jail time, to protect their reputation from the stain of criminal charges, and to avoid collateral consequences of criminal conviction such as limited employment or licensure, or damaged family relationships.

Trina feared both punishment and a first charge on her record, due to a possible conviction based on lies and the workplace nepotism she was already dealing with.

Protecting her reputation was very important to her:

Someone said something about mediation and I just did it. I did it because he took paperwork out on me. I don't have any charges. I don't want any charges. I didn't know what was going to happen. By him being the best friend of the owner and I said, "Okay. We'll do mediation," just so I wouldn't get a record for what he did. People lie. You don't know what's going to happen in court. You see it every day. I don't want any charges. He was like, "Oh, I ain't scared of the police. I've been to jail before. I'll go back." Like who does that? Who's happy to go back to jail? I don't want to go to jail.

Trina felt the unfairness she had already experienced in the workplace's human resources miniature justice system foreshadowed that she was unlikely to receive justice in a trial setting, since her manager was the cousin and best friend of the coworker who threatened to attack her. Similarly, Shirley's workplace dispute had been reported to and responded to by human resources in her large organization, and she felt lied about and falsely accused, which made her fear a criminal court trial all the more. Guarding their reputations and clean criminal records was a big motivator for both of them in choosing mediation.

Aisha used mediation to avoid the collateral consequences of a possible criminal conviction for a charge she admitted they were both guilty of: a fist fight in a bar with a friend-of-a-friend and former classmate. She reported that both she and her fellow mediation participant had dreams and plans to work in health care and child care, and that

their licensure (both current and future aspirational licenses) would be revoked or denied if they had a criminal record.

Imani was also very motivated to use mediation to avoid charges, because her criminal record meant the current charges could bring serious consequences. This was highly traumatic to her, especially since her past legal trouble was in the context of leaving an abusive marriage: “So the biggest impact was that I was faced with criminal charges ... I felt very nervous and anxious because I have of course a lot to lose. I've acquired a lot. I'm a mom. I'm a wife and I'm actively involved in all of my children's lives.” In these cases, fear of punishment, and of criminal charges damaging reputation, career and family were powerful motivators to use mediation rather than stand trial.

### ***Having Mercy on the Other Person***

Showing mercy to the other party in their case was a central motivation for using mediation for Al, Caleb and Keisha. Al related his decision-making process, saying “Me and my wife discussed it over. That's when she said, just go ahead to mediation, because my wife, she don't feel good about females in prison because she had worked in one at one time. And really, it was like sending a friend to prison, so I couldn't do that, so I just went on to mediation.” Caleb felt similarly:

I just am a big proponent of finding solutions that don't involve incarceration. I don't think our justice system is really set up to rehabilitate people or offer anything meaningful, I think it's a punishment-based system that is meant to satisfy the other person's demands for justice or for vengeance even. I believe very strongly in the concept of giving people a second chance, and forgiving sins, and loving my neighbor and I just think sending somebody to jail is just kind of

the antithesis to all of those things. So, personally and spiritually, I would not have found that to be a good solution to the situation.

The other participant in Keisha's mediation had been like a mother figure to her, and she was fighting cancer. She said a police officer told her "if he was here a minute earlier and saw her do all those things, ...he would have took her to the jailhouse. I was like, 'I didn't want that.'" Here again, her past relationship with her fellow mediation participant and her empathy for her struggles motivated her to want to show her mercy, and mediation was a path for doing that.

### ***Justice System Summary***

In examining the capacity of criminal court-referred mediation to reduce violence and second-degree assault recidivism, the traditional retributive justice system is interwoven with the choice to use mediation, and provides a framing context. Contributors described a complex relationship to the justice system, including the police, court commissioners, assistant state's attorneys, public defenders, and district court judges they encountered, including the ways in which the system protected them, caused hassles and barriers, and threatened loss of freedom, reputation and career. In most but not all cases, diversion to mediation was felt as a conscious voluntary choice, and among other things a method of first removing the threat of criminal charges to themselves or their fellow participant before the conflict itself could be resolved.

As explored below, this justice system context was also interwoven with contributors' views on whether further violence or criminal recidivism was possible between them. Contributors talked about the court process resulting in potential embattled defeat, loss, punishment, damage to reputation, career, and family, and public

embarrassment or shame. Mediation allowed an alternative to those consequences. It may follow then that one risk of using the criminal justice system to resolve interpersonal conflicts is that if one participant loses, with all the defeat, punishment, rippling damage, and shame that can involve, physical or legal retaliation may be more likely to follow.

## **Theme 2: Requirements for a Positive Mediation**

Most contributors were generally positive about the opportunity to mediate, the strengths and benefits of the mediation process itself, and the mediators. Individual contributors' opinions of the service ranged the complete spectrum with a few finding it useless and damaging (especially when the mediation ended early) and a few finding it critically helpful, saving their family relationships or careers. Contributors in general felt that a mediation could only resolve things after an assault if it offered: safety; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators.

### ***Safety***

Before anything else, contributors needed their mediation sessions to be safe, in order to get to a good outcome. They liked it when the mediation felt safe or peaceful, hated it when they were yelled at repeatedly or threatened, and gave ideas about how mediators could better support safety.

Most contributors benefited from mediation and several spoke in praise of mediation sessions that felt safe. Jack appreciated that "once we got in there, it seemed that everything was on a level playing field, the people were nice. There was a white board and big sheets of papers that you could write things down, and calculators and all

that. And it was very calming and very easy to work over things.” Lil Bitz talked about the safety that third parties provided, saying

I like that instead of us doing it on our own and having problems, that it was outside parties that brought us together to work out our issue. That's what I like about it because we wasn't going to resolve the issue with just us two, and it was safe.

Andrew added that “the thing I think was most helpful was that it's not a rushed process. We'll sit there and take our time. And it was therapeutic in a way.” Shirley said “they were very good, listening, not being forceful, ...giving everybody respect.” Contributors were happy with the service when they felt calm, peaceful, unhurried, respected and safe.

In sharp contrast, five of the nineteen mediation participants interviewed hated the process and thought it was useless in their case, especially when it ended early with shouting and threats from the other participant. Erika said her mediation session with her husband's ex-wife “didn't last long because the other participant was very, I guess you want to say violent. Well not violent as in physically but verbally, screaming, cursing to the point where [the recreation center hosting the mediation] asked us all to leave.”

Jasmine reported that her neighbor,

picked up his cane, reached it across the table, started pointing it in my face, saying that I was an F-ing liar. ...I looked at the mediator, the people, I said I had no idea that this was going to be like this. I really don't feel safe.... And he shook his cane like two more times. And he said, I will see you in court. And he walked out.

As mentioned above, Ruby left her mediation in terror, saying her neighbors: “proceeded to act a fool, pull their pants down, show bad body parts ... I had to go. I was not going to just allow the nonsense. I came there to eliminate the problem, to get an apology. ... They still wanted to physically harm me ... I was threatened that she was going to jump on me.” The main instigator in Jerrica’s conflict was locked up on other charges at the time of her mediation and called in by phone from jail. Jerrica said “he was being mean. He was like, running his mouth. And [his girlfriend] was trying to calm him down, but he wouldn't... Calling me a cop-caller, and I'm a dumb B and stuff, told me... if he was around, he would hit me and stuff.” Trina also felt unsafe, though her mediation continued all the way through to a written agreement. She shared that “they let him call me out my name. He jumped up. He tried to walk out. It was very terrible. ...I didn't go there to get cussed out. I thought we were coming there to solve the problem, so neither one of us had to go to court. It was just a terrible experience. I was out of there in tears. I smoked two cigarettes back-to-back when I walked out of there.” Cursing, insults, yelling, or threatening language and behavior by the other mediation participant led to contributors feeling unsafe in mediation. All who felt unsafe in mediation spoke poorly of the service in general. With the exception of Trina, these were cases which ended early when the other participant or they themselves walked out.

In addition to concerns about their safety, contributors provided suggestions to improve and support their safety in mediation sessions. Ruby had appreciated being walked to her car and said “the mediation woman took me and led me towards the back door. Helpful by getting me out of there and making sure that I was safely gone before

allowing them to go.” Trina had several ideas about how the mediators could be more helpful:

They'd have to say, "[Al]. That's not how it works. Calm down. There's a better way," or if I do it two or three times, then it's a consequence for my actions or something to that effect or take a break and let the person go outside and take a deep breath and then come back in... or, "Okay. It's not working out this day. We're going to reschedule this mediation from a week from now." Something like that.... Or don't let both of us walk out at the same time. Keep one in and let the other one go and wait five minutes and let the next person go. They let us out right together.

Trina's ideas raise questions about how best to support safety while also preserving mediators' neutrality. To admonish a mediation participant for disrespectful communication is common in some types of mediation but lies outside Inclusive mediation practices. Taking breaks and ensuring participants leave separately are common mediator strategies. Giving a punishment or consequences to a mediation participant would be unusual in any mediation approach, as it would compromise neutrality.

Jasmine, Aisha, and several others had a sophisticated analysis that took into account the mediation value of neutrality and knew that a lot of the protection they wanted from mediators would have cost them their neutrality. Jasmine said that:

I really don't think of nothing that the mediation center could have did. I mean, they're not there to judge, just openly suggest solutions, but in my opinion, I would say this: security at one of the sites would be necessary because that was



just a hostile situation for me. But I can imagine somebody probably would get hurt at mediation because there's nobody there to protect either side.

On the topic of security, only Jack, who felt very safe in mediation with his attacker, had attended mediation inside a courthouse, and he mentioned seeing the police stationed in the halls on the way in.

Many contributors appreciated the feeling of being safe, calm and respected in mediation, and the negative cases proved this rule. Being cursed at, yelled at, insulted or threatened in mediation led to hating the whole experience of mediation. In many cases these cases ended early (in one case after seven minutes) meaning that no resolution or agreement about the underlying conflict or the criminal charges could be reached.

Contributors also provided ideas about preserving safety, including mediator strategies like calming participants down, taking breaks, and requiring participants to depart mediation separately, as well as preferring to have security guards present. In the aftermath of assault (whether a fight or a one-sided attack) it is natural that these concerns would be central to mediation participants, as a strength or weakness central to their experience of mediation.

### ***Free Expression***

One of the positive qualities of mediation that was most often mentioned was freedom of expression. Venting and getting things off their chest was what made the process valuable for many contributors. Even Trina, who felt endangered and unsafe in mediation said the best part was “to be able to talk...It was good...that people can talk and get stuff out in the open...[The mediator] just let us talk.”

In some cases the mediation was particularly valued because it allowed for expression of things the conflict had previously prevented from coming to light. Two were happy about the ability to express what the conflict and assault had blocked them from being able to say. Gigi reflected:

It really helped though. I told them how I really feel.... Getting us to communicate again, getting us to look at each other again. Because it was at that point you couldn't even look at each other. Yeah. It's a good thing. It really is a good thing. They bring up things that you would've never thought of. ... They just kept it going where it finally got comfortable enough where we all spoke out... To bring our feelings out instead of holding it in.

Imani felt similarly about the young coworker she had fired: "I did get an opportunity to tell this young woman how I feel because I kept saying that. Even before mediation called me, I kept telling my sister, 'I wish I could tell this young woman how I feel.' And when mediation called, it was like that was perfect." The ability to reconnect and communicate freely in mediation after the assault had shut down communication was deeply valued by these contributors.

Regina had a long conflict with her ex-husband's new partner, the stepmother to her children, whom she called the "keyboard killer." Because so much of the conflict played out within the false anonymity of social media, mediation allowed for face-to-face expression. She observed: "I think it helped her. It kind of finally put her face to face with me and for her to say all the stuff that she'd been trying to say to me face to face. It was stupid, but if you understand this, someone is bitter and they want to say stuff to you, but they never interact with you." The directness and accountability of face-to-face

communication was important in this conflict, and mediation provided a forum for that for one of the first times in their association.

Contributors also mentioned that there was more freedom of expression and direct communication in mediation than might be allowed in court. Lil Bitz reflected that “there was no other person there that could basically interact or speak on either one of our behalves. We had to speak on our own behalves.” Jack felt similarly, saying mediation gave him “a chance to go in there and try to work it out instead of being in the courtroom, running back and forth, trying to lay everything on the table for both parties.” Ruby, who, like Tanya, left her mediation in fear, shared that “I can say being able to sit down and actually talk about the situation... That's what I was able to do in mediation. So it allowed me to talk about what actually occurred, and the court doesn't actually allow you to do that to that degree.” Al also referred to the confidentiality rules and protections of mediation giving him more freedom of expression, saying:

They just told us that we can say what we wanted to say and it wouldn't go back to the court or anything. It was basically to get all out, to vent each other out and see what kind of solution that could come to it. They just let us get everything off our chest that happened that day. I mean, we was good friends, very good friends before that happened. They let us get our beefs and gripes out and everything. Because of the previous friendship he had had with his co-worker, the ability to talk everything through freely and air grievances was valued, and an important ingredient in that freedom was the knowledge that the things they said, including any apologies or admissions would not be brought back into the criminal justice system.

The converse was also true. When the ability to express themselves was hampered, it took away from the value of the process. For example, Henry felt he couldn't get a word in, and consequently the conflict did not improve:

My wife had a lot of emotions when she was in a certain place and... she wanted to get some things of her chest she shared. I probably had some things on my side that I wanted to get off, but she had most of the floor ... she dominated the conversation. And so, I was under the impression, sounded like you would get a certain amount of time to speak. It really didn't go that way. So, I really don't know. I don't think that there was anything positive that came out of our mediation sessions. ... A couple of comments from her outside the car, we got in the car, we drove separately, right back to the same house, we kept our distance. Not being able to express himself was a key to why he felt the mediation did not help him heal his marriage or communicate more effectively with his then-wife.

Freedom of expression was a key strength and value of the mediation process for study contributors, including the ability to face each other, vent freely, air grievances, and speak candidly without fear of the conversation being brought back to court. As with safety, the exceptions proved the rule: when free expression was blocked, the mediation was less likely to have been useful to the participants in resolving their conflict.

### ***Getting Clarity About the Incident and Taking Responsibility***

Many contributors mentioned benefiting from the clarity that mediation brought, to their understanding of the assault, to the question of who was responsible to what degree, and to the confusion that had marked the escalation of the conflict. If clarity did not come through mediation, contributors were dissatisfied.

Confronting the other person about what they did and the harm it caused was a key benefit that resolved the issue for Jerrica, Imani, Nikia & Keisha. Jerrica wanted accountability and said “[I told her] how I feel about how the girl threatened me and my daughter and my niece,...I told her it's not right...And I even gave her the copy of my records of what they was texting me from my phone, so I got that printed out. And I also gave it to [the mediator] and then I gave it to the court, too.”

For three contributors, clarity about the culpability of others who were not in the mediation session was a key benefit of mediation. Imani used mediation to tell her former employee about the role of her own boss in firing the woman: “I actually got to tell her in mediation ...that it was not me who actually initiated her being terminated and... she started crying because she felt like all of that could have been avoided and she could very well still have her job had she not did what she did [afterward].” Nikia’s mediation with her boyfriend’s secret second girlfriend brought out uncomfortable truths about his role in the fight, including his cheating, and drug use. Keisha and her former co-worker also clarified a third party’s responsibility “It was helpful because it helped us see ...the clarity of the whole problem ...that it wasn't neither my fault or her fault, so we just figured out who was the cause of the problem.” In this last case, a gossiping coworker had spread some untruths and caused a rift between the two mediation participants. After an assault, police intervention, and multiple court appearances, they each only understood what had happened after talking in mediation.

Further supporting this key idea, when the mediation process did not offer an opportunity to get clear about the assault and conflict, it brought frustration. Regina was disappointed to have no discussion or clarity about the assault itself, saying “Honestly, I

thought we was going to discuss the incident on what happened? You know in mediation we never discussed the incident on why we was in mediation, and that is the crazy part of the mediation. We didn't even discuss why we was there.” When the assault itself was not discussed in mediation, Regina was baffled and let down. The opportunity to get clarity about the assault and to establish responsibility and accountability was important to participants, both when it was present and when it was absent.

For several participants, reaching a point in the mediation where someone clearly took responsibility for aspects of the conflict and assault was an important element of mediation. Receiving an apology was central to the experience of mediation for some contributors and not for others. Sometimes this was one-sided and sometimes it was mutual. Lil Bitz said “we basically both apologized to one another because we felt as though it shouldn't have went as far as it went.” Caleb and the other driver also exchanged apologies.

Jerrica also benefitted from getting clear about accountability: “So that kind of helped too, and I liked how she had apologized to me, which she did... The girl, she got in her feelings, she started crying and telling me she's really sorry.” Imani described how mediators' skills helped her and her former employee to the point where they could make mutual apologies, too:

While we were talking, the mediators interjected to ask certain questions or to probe certain questions to get us to talk about certain things that happened or what could have happened differently to prevent the altercation. So, I feel like it was a positive thing to do to allow people the chance to see where things went wrong in a situation and what they could have done differently. So, it was a very positive

outcome because both of us agreed that we didn't want to proceed with criminal charges against one another and at the end, we were both apologetic for what actually took place. So everything was resolved at that point.

For Imani, questions and clarity helped both participants get past the incident, and apology and resolution were aligned or even synonymous. Jerrica was happy to receive a tearful apology but did not feel the conflict was resolved, and elected to continue with her court case after mediation, not allowing the charges to be dropped at the mediation table.

Many contributors were looking for clarity, accountability, responsibility and apologies in mediation, whether mutual or running in one direction. When those values were met, contributors were more likely to have come to resolution in mediation and to have been satisfied with the process, and their absence brought frustration.

### ***Getting to Solutions***

Contributors also highlighted that mediations which did not focus on solutions were unhelpful, and those that did were more useful. Brainstorming solutions was referenced as a highlight of mediation for a few participants. Lil Bitz reported that in her mediation “basically we were trying to find ways to resolve different types of conflicts on the job. What you would do, what you wouldn't do or what you should have done. Basically you stay in your area and that person stay in their area.” Gigi felt brainstorming solutions in mediation allowed her to make a major shift in her thinking (described below) and said, “the main thing is that they ask each and every one of us to tell how we feel. Is there a certain thing that you would like?” For Lil Bitz and Gigi, some strengths of the brainstorming process included reviewing and testing different ideas, and eliciting ideas from everyone at the table.

Aisha was dissatisfied with mediation and said her session involved discussing the issues then making an agreement to request that the charges be dropped. When asked what solutions she came to in mediation she said “It’s not solution-based if you’re just going to sit here and argue, ...you’re not really resolving it. You’re just giving us ultimatum. We can sit here and argue, or we can sign off on people and drop the charges. But that doesn’t mean that the issue is resolved....So how you want things to be different in the future?” Henry participated in three mediation sessions, reporting that his mediation never left the listening stage, and that his then-wife did nearly all the talking. He said he wanted less focus on the past and “some form of resolution.” Although both had numerous challenges with mediation, a key idea was that it was less valuable because they did not come up with any solutions in mediation. Brainstorming solutions was discussed as a key element of conflict resolution, with multiple ideas reviewed, and with everyone at the table prompted to contribute ideas.

### ***Balancing Action and Neutrality***

Contributors saw benefits and drawbacks to mediators’ neutrality, and their most common complaint about mediators was that they were silent when the mediation participants’ arguments became heated, loud, or disrespectful. Being unbiased and distant from the problem was often mentioned as a benefit, but contributors appeared to be looking for a brand of neutrality from mediators that was active, not silent or uninvolved.

Mediators were generally referenced in positive terms, reported that they had listened, asked questions, and done what they could to bring resolution in a difficult situation. When critiques about the mediators were made, it was nearly always to point out silence, or mediators doing nothing when mediation participants argued loudly or



disrespectfully. Trina talked about being let down by her mediation, and specifically the inaction of the mediators:

It was terrible. The mediators, they just sat there. To calm him down. Say, "Sit down. You can't do that. You can't stand up. You can't beat on the table." Why were they there? I could have met him on the street and dealt with it then and there. They didn't protect me as far as being verbally abused and mentally abused. I walked out of there in tears. What is the point of mediation? They did nothing but sit there and listen.

Similarly, Henry was disappointed by the mediators' non-intervention, saying:

The mediator doesn't really intervene ... take some notes and things like that. So she's kind of a referee... she's not like a therapist where she's going to facilitate a discussion for us to do any root cause analysis and kind of get to the bottom a lot...I was under the impression when you talk about mediating, they're going to kind of like help us through the discussion and she pretty much said ... at the beginning of our session that was not her role.

Henry's frustration about the mediator's role, and the neutrality of a mediator highlighted a major tension among the interviews about mediations following an assault. While many praised the neutrality of mediators as helpful, others were looking for mediators to take their side, or offer supportive, therapeutic advice or analysis.

At the same time, neutrality and non-bias were prized by many contributors. Imani, for example, was happy with the non-bias and neutrality being offered, saying the mediators were helpful by actively asking questions: "They kind of remained neutral. I don't think they were biased, to say the least. ... They're not taking sides but they could

see both parties' points of view ... They just took plenty of notes and they asked certain questions. I think it was the questions that they asked that allowed us to be able to talk. I think that's what helped." Gigi's mediators "pointed out everybody, ... it was never like pointing a finger at one specific person. They listen first of all, to every person's point. ...they went through everybody's view of each thing... Not taking sides."

Others commented positively on mediators' nonjudgment and distance from the problem. Andrew valued the mediators' ability to be objective: "It's nice to have a person... that doesn't have any stake in it and who's there with an objective eye. Just trying to get it clear." Gigi, similarly, felt that mediators had more distance from the issue and could be helpful:

There are so many families out there that don't have anybody to talk to, and they get in these situations. ... another family member, sometimes it's not your best person to talk to.... Family has opinions. But these two [mediators], I mean, they're there, they're listening and they're not negative towards anybody. They're not saying, "Okay. Madison, you were wrong for cheating." "Okay. Gigi you were wrong for going over there." It's not like that. It definitely is that outside person that you need to talk to.

Caleb (a social worker by training) articulated exactly what skills his mediators used to listen actively and still avoiding judgment when insults flew:

The mediators really just did a lot of reflection more than anything, they would kind of just allow us to say our piece and then express to each of us individually or together what it sounded like what was important to us. They really didn't engage, which was good, in the accusations back and forth or the sort of more

elevated personal attacks that happened during that time period. They really just kind of reflected on, this is what's important to you, this is what you want to achieve. That sort of thing.

Caleb described mediators who were able to be both active and neutral, using reflective listening to reflect back mediation participants' values and leaving accusations and insults alone.

By contrast, some contributors wanted their mediators to take their side, even though they knew it was outside their role. Nikia wanted her fellow mediation participant to be fined for walking out. Jack wanted legal advice, but accepted that was not the mediators' role. Jasmine wanted mediators to write a statement about her neighbor's threats during mediation, and was looking for a fair judgement:

I think for mediation to work, I would say that it would actually have to do with somebody officiating in this situation officially. ...I think if there was a pre-interview before the mediation, even if you had to do it in writing or over the phone, like if they asked you to give a statement of what's going on, so that they already know before you sit down at the table what they're dealing with. ...the mediator, they can just start the process off saying, who wants to start? It seems like it's just to openly fight in public with two people watching.... It's almost like you know you have kids at home in a argument or something and you pull the kids into the room and you ask the question, you know, what happened, what happened? And then you make the judgment of, okay, this is what really happened. ... something that we can use and just be fair to everybody.

Jasmine portrayed a conflict that was strikingly one-sided, with a neighbor continually berating her and repeatedly smashing her car, unprovoked. Her desire to have the mediators make a judgment (as in an arbitration) may have been connected to the nature of her conflict and court case, which ended with the judge giving the neighbor probation after he stormed out of the mediation session.

Overall, contributors spoke well of their mediators, and wanted active, participatory mediators who used questions and reflective listening to engage with the conflict, but remained neutral, both in the sense of non-judgement and non-bias.

At the end of the day, several contributors who were dissatisfied with mediation explained that their mediation sessions could not succeed since their fellow mediation participant was either not trying to reach resolution in good faith, or was too uncivil to benefit from mediation.

Several contributors felt they couldn't really judge the value of mediation in cases of assault because their fellow participant was not mediating with an open mind or a willingness to come to resolution, which is sometimes called mediating "in good faith." Andrew (whose mediation ended in dropped assault charges as well as a written parenting plan agreement that is still in use) felt his ex-wife had not been open and willing to come to compromise in mediation: "in mediation, both parties are supposed to be open and interested in resolving it, ... It takes two to tango, so if there's only person that's willing, it's not going to work... you can lead a horse to water, it doesn't mean they drink." Nikia reflected that her fellow participant's motivation had never been there:

she barely wanted to participate in the mediation. ... She kept postponing it, ... kept trying to get out of mediation. I think she just intended to use it maliciously,

...I think that she only used mediation out of curiosity, because to sit face-to-face to hear what I had to say, I don't think it was about mediating between me and her. Clearly it wasn't.

Jasmine also felt her neighbor was “not bringing an open mind ... not even in a situation where you want to fix something.” A key idea for these contributors was the open-mindedness and willingness that both participants must bring to mediation in order for it to work well and bring resolution.

In addition, a few participants felt that their fellow participant was not a good fit for mediation due to their lack of civility or disrespectful communication style. Erika had the unique context of having used mediation successfully in the past, and felt her husband's ex-wife was not an appropriate mediation participant:

I've used mediation before... with my husband when he was about to exit jail. ...But [for this case with his ex-wife] my husband was just like, 'It's not going to work. ... as soon as someone says something she doesn't like, then she just flies off the handle...she's not going to let anybody get another word in. She's just going to be screaming and hollering.' And that's exactly what happened, to the point where they put us out.

Ruby said her neighbors were “not mediation people” and asserted “[mediation is] very helpful if it's being utilized by the correct type of people... Meaning people that aren't so angry about life, and hateful about life, or scarred.... the process of mediation can lead to a good outcome if you have the right type of people, more positivity, growth, willing to really resolve the issue within their heart.” In general, several contributors felt their mediations were hampered by the other participant's closed-mindedness or disrespect.

### *Mediation Summary*

The ability of mediation services to reduce future second degree assault and violence was addressed by contributors in terms of the mediation session's attributes and quality or value to them, as well as the fit of the mediation process with their conflict and their fellow mediation participants. Contributors felt that a mediation could only resolve things after an assault if it offered: safety; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators.

### **Theme 3: Outcomes**

The third theme among contributors' descriptions of criminal court-referred mediation centered on the outcome of their mediation and court case, and its impacts on their lives. Reported outcomes following community-based mediation included little interaction, major changes in work and housing, and closure or endings that they felt needed to happen, and no further violence or court charges between participants in all cases.

### *Interaction after Mediation*

Contributors varied in whether and how much they interacted with their mediation partners after the session. Most contributors had reduced, little, or zero interaction with the other participant after mediation, and some had a lot, with improved connections. The type of continued interaction was often shaped by the nature of their relationship.

Many contributors reported no interaction with their fellow mediation participant in the months or years between the mediation session and the interview. Imani said "Once we went to court, that was the end of it. We never heard or seen each other again," Jack reported "no contact whatsoever" and Aisha said "I really haven't seen her since, she

really hasn't seen me since.” And Shirley said “I mean I've seen her. She speak, I speak and that's it. She'll throw her hand up; I throw mine up, ... she goes in her building and I go and do what I've got to do. It's not I'm in fear for my life and she's in fear of her life. No, that was over with ...at the mediation.” Trina dodged her former coworker, Al: “One day I was on the bus, riding on the bus, and I saw him at the bus stop to get on the bus and I got off the bus so I didn't even have to deal with him, ... because he's very mean and hateful.” All four of these respondents had been coworkers or business partners, and they either quit, dissolved the business, were terminated, or had shift changes that put them largely out of each other's paths.

By contrast, some contributors were still in regular or close contact with their fellow mediation participant. Tanya still spends time with the neighbor who pulled a knife on her and has her over to her home: “It's been okay. ... I just don't trust her. Yeah, I still talk to her...she comes over sometimes.” This was surprising given the nature of that assault, involving pulling a knife during a neighborhood fight. It was also surprising since after Tanya filed charges on her neighbor at the local police station, the neighbor had spent time in a detention center pre-trial. Having worked things out in mediation, they were able to relate to each other again, talk, and have each other over to their homes, despite diminished trust. Gigi was in regular contact with her son and his fiancée, and she credits mediation with saving their relationship:

I think that if the court system hadn't requested us do mediation, we probably still to this day probably wouldn't be talking....We talk. I still didn't get to see my grandson for almost two and a half, it was almost three months before. ...

[Without mediation] I think she would've got away with it, and I would have

looked like a fool in the end. If it had went to court we probably would not have talked. We definitely probably would not be nowhere where we are. I mean, that would have just been more conflict. With that I would have lost my child. You know what I mean? It could have got really ugly.... I think they're doing okay.

They have another child. I think they get along okay.

In these cases with Tanya and Gigi, mediation has been powerful in rebuilding seriously damaged relationships.

Several contributors were co-parenting with the other mediation participant and kept their distance while still working through things since the mediation. Andrew said that:

More recently, she's been willing to compromise, willing to talk. It's like, I don't want to say, it's not like we're like best buddies or best friends, but it's now like she's more docile. She isn't spiteful or vengeful. It's just like, it's like we peacefully coexist. And if there is a problem, we talk it out. Before it was, "Oh, I'm going to take you to court. I'm going to get my lawyer." You know, try to use anything against me? Now, it's just like ... we just talk things out now.

Erika mentioned a bright moment in a still-tense relationship with her husband's ex-wife, the mother to her stepchildren: "Since the mediation I haven't spoken to her. She did tell my husband to tell me thank you because I bought my step son, the oldest one, a pair of shoes that he needed for work. ... she told my husband, "I know me and your wife aren't on good terms. But I appreciate her buying [his] work shoes." In these cases mediation did not heal the underlying conflict but may have helped make the difficult process of co-parenting after a divorce somewhat smoother.



Three contributors mentioned final glimpses of the other mediation participant that were positive. Lil Bitz saw her coworker Shirley only at the session: “So when we left mediation, I was ready to leave and she was like, ‘Do you mind giving me a ride home?’ I was like, ‘Sure, I’ll give you a ride home.’ I’m the type of person, I don’t hold grudges.” Caleb waited with his co-participant a while for his court case to be called, in order to drop the charges:

It was fine. We had kind of buried the hatchet by that point. He actually joked when I first came in, because I don’t think he realized that I had to show up in order to drop the charges, he was like, “Hey, did you change your mind?” I was like, “No, no, no.” And we proceeded to just shoot the breeze for probably like a solid half hour before they finally called our case.

Keisha saw her ex-boyfriend and his mom that she mediated with from a moving bus: “Since the mediation, I saw her. I don’t think she saw me, but we haven’t really crossed paths like that...because the bus route, it go past where she works. She was outside. She was outside and looking off the bus and I seen her before. I’m like, ‘Oh, they still alive. They still doing well.’ I didn’t get off. I didn’t yell off the bus or nothing like that. I was going to meet a friend.” Mediation in this case clarified the incident enough for them to part ways on respectful terms but did not restore the prior level of relationship.

Of the nineteen contributors, only Ruby was still in a negative place with the neighbors she had a walked out of mediation with. She said that she was still fearful and paranoid about their threats and antics, and nothing has helped:

I had a protective order from her next door. But it hasn’t stopped. They just have not physically put they hands on me. She put... Last month, she put a whole bunch

of... Powder down for my dog, poison powder. ...And I'm like, "There's no roaches over here. There's no bugs out here. Why is she putting that down?" Well, they been trying to behave. But I know it's just a matter of time. ... She's said that it wasn't over yet.

After court dates, mediation, more court dates, and jail time for her attackers, the situation was still not resolved or safe for her.

### ***Closure and Endings that Needed to Happen***

Many contributors mentioned that mediation provided them with a sense of closure, or that it taught them that a relationship needed to change or end.

Regina and Andrew both said the conflict got a little worse following mediation before it got much better, once a legal divorce gave the situation formal closure. Andrew said:

I was ready to move on and stuff like that and just ... be at least civil, but she wasn't. ... So the relationship between us got worse before it got better. ...she wasn't ready to let go and ready to accept that things were different. And when she finally accepted that, then our relationship got better [after] she moved on and found another man and got married.

Regina said that her ex-husband's new love "still posts stuff on social media. ...Oh yeah, she still tap-tap that keyboard. She's still the keyboard killer. That's what I call her. Well it's crazy because it happened after mediation, but once our divorce was final, she haven't."

For some, mediation brought growth and reunification, with several changes in place. Gigi learned a lot from her mediation, and made the difficult choice to put more space in her relationship with her son, a new father:

I used to talk to my son every single day. But it might be once a week, it might be once every two weeks. Only because [my son's fiancée] feels like ...he talking more to his mom than her... It almost even gave me the ability to step back. And at 30, I guess he does need not to have to go to your mom for everything. She was learning a new way of mothering her adult son following a terrible fight and successful mediation.

In a few cases, mediation did not bring contributors back together with their fellow mediation participant, but brought the clarity and closure needed to end the relationship, which they felt had needed to end for a while. Nikia and her boyfriend's other girlfriend figured out in their mediation session how they had both been used and manipulated, and she said mediation "helped me make a more firm decision about him, the relationship ...I ended it...and I think after that we both broke it off with him. I couldn't be more happy. I hope to never hear from him again." Similarly, Jack said "the breaking up of the business has made my life better without a doubt. I bought a house in Maryland that I just happened to fall into, and business seemed to get better. My contacts have gotten better through advertising and websites has gotten better, it really has taken off." Mediation in these cases did not involve the healing or reunification of relationships, but the ability to end the relationship on respectful terms. Caleb shared that mediation "gave me, personally, a lot of closure. It put that whole year of trying to get

answers to rest finally. It also just made me feel a lot better about the outcome.” Shirley echoed that sentiment, saying “I felt we left it there, that's what I left with.”

### ***Impacts on Work and Housing***

Several study contributors talked about positive and negative long-term impacts of their assault on their careers and housing situations. A failed or successful mediation was sometimes a factor in these outcomes, and sometimes not.

Major impacts of the assaults and the court charges and mediation that followed included work and income impacts, including job loss, dissolution of a business, and changes in work locations and shifts. Health care management professional Imani left her company: “I wound up leaving the job because I felt like they were going to try to retaliate. I didn't feel safe. I no longer felt safe working for that particular office and there wasn't, at the time, any other offices with vacancies for an office manager. So I wound up leaving the company altogether.” Lil Bitz had her schedule changed drastically following mediation, sharing that “I took the choice of going to night shift so I wouldn't be around that person at all again.... it's not really good because ... I have night blindness. So it's difficult for me to drive at night... But you know what I said? I thank God I've got a job. I work in the building by myself. ...Nobody comes over there and bothers me, I do my job, I work my four hours and I go home.”

Trina was utterly devastated following her assault and mediation, and her employment situation was worsened by disability and by the pandemic's impact on the food service industry:

I haven't worked since that day, ma'am, and that was May 12th, 2019... They was like, "We're going to mail you a paycheck." You know what I did? I didn't fuss or

anything. I just dropped my head and started crying and walking out the door because I already knew. I've been fired from plenty of jobs, but this one hurt me the most because I actually didn't do anything wrong. Then the corona broke out and that just made it worse. Nobody hiring nobody, you know? I just don't take any job. I have to make sure that I'm able to do it and it won't trigger any [epileptic] seizures.

What started as a simple workplace argument had cost them both their jobs, and the effects continued to impact Trina, with the multiplying effects of COVID-19 and her disability. The fact that the case came to resolution in mediation, and that the court charges were dropped had not undone the damage by the human resources department, where Trina felt she had been “found guilty” of a crime committed against her by a violent coworker, who was also the cousin of their boss.

Housing was also severely impacted by the assault, underlying conflicts and court cases for some of the contributors. Jack said his conflict with his business partner “made me homeless and all kind of things. Through two or three days’ time, everything that I had started and made, he pushed it all away from me and I was kind of stumped. I didn't have a vehicle, I didn't have a place to live, and I had to really scurry to make, to get back on my feet again and really move forward.” Ruby felt chased out of her neighborhood by the violence and threats from her neighbors, saying she was “Trying to find somewhere to move to. That's my plan. But right now, I'm a little disabled. But I'm still in the process of trying to find somewhere... My situation with my neighbor made it a wreck.” The conflict, court charges, and court and mediation processes had left her feeling that her

home and neighborhood life were a wreck, which continued to bear on the question of further violence, as noted below.

### ***Outcome of the Criminal Charges***

The status of the criminal charges was of utmost importance to the contributors, as described above, and criminal charges were dropped in thirteen of seventeen cases. Two cases were dropped despite the mediation being unsuccessful. The cases that ended in a conviction seemed to correspond with contributors' reports about cases that were less mutual fights and more one-sided attacks.

Several contributors felt spared or saved by the process of having the charges dropped in mediation. Contributors who were the defendants in their criminal court case (and many were both defendant and state's witness bringing charges, in a cross-charged case) were happy to be free of criminal justice system charges, and the fear that came with them. Imani, another defendant, was extremely relieved that charges were dropped against her after living in terror of further punishment. She said:

[I was afraid] that they would find me guilty for an assault charge because I have history of assault on my record and... That's a tarnish that I won't be able to get rid of for quite some time. I have to get a pardon by the governor if that's going to be off my record. So, I didn't want to revisit that. I was very, very nervous about that because I just finished years of probation and like I said, this was all a result of me exiting a very toxic marriage where it resulted in me being arrested. So I didn't want to go through that again, so I was very nervous. I didn't know what the outcome was going to be. ... So, once we both decided that we didn't want to

press charges against each other, I was very, very happy. [I was] able to get everything expunged because it was thrown out.

Similarly, Henry was relieved that “the charges were dropped and then the allegation was removed or expunged from my background.” As a graduate student he had been worried that the charges would hurt his reputation and career prospects.

Some contributors reported that mediation had resulted in dropping charges against the other participant in mediation, bringing relief to some. Andrew had been the victim of a violent assault, and said that for his assault case within a multi-year custody battle “the assault one was resolved within that day, because it was lack of proof...” When asked what might have happened to Trina without mediation, Al said “it'd have been good for me because the truth would have come out with video footage of the whole incident. It would have been bad for her...she'd have went to prison because they got everything on video.” Road rage victim Caleb was very happy to have charges against the other participant dropped.. He said that:

Based on the reaction that the state's attorney's individuals had when they were talking to me about the incident, it sounded like they were going to charge him with some pretty serious crimes potentially. So, I imagine he would've probably ended up with some jail time.... [Mediation] really just reinforced the notion of love thy neighbor. I don't think I've ever really been a victim of crime before and I'd always, prior to this incident, been a big proponent of criminal justice reform and... Not been a fan of the overuse of the penal system.

He also spoke about mediation as a path for personal growth, as it challenged him to live up to his ideals:

If you're going to espouse to the entire world that you don't think jail time is a solution for criminal activity, are you going to be willing to stand by your own creed there? So, the fact that I was able to go through this process in a way that did not just penalize the other person was very personally satisfying for me and allowed for some growth on my end.

Having a mechanism to resolve serious conflicts and crime without jail, other punishments, or collateral consequences for the other participant was deeply valuable to many study contributors who used mediation.

Two contributors had charges dropped despite not having come to resolution in mediation. Nikia had been frustrated that she could not use mediation to drop charges due to the other mediation participant leaving the mediation session early. She said, "Once she walked out, that was the end of the mediation. ...So, it didn't give me a chance to reap the benefits. ... I had to request it to go to trial, and then they threw it out...I think the state's attorney asked if we wanted to both pursue it, and we both said no." In Jasmine's case, which also did not come to agreement in mediation, the prosecutor dropped an assault charge against her, but the charges she filed against him held: "we did wind up going to court and he lost...I showed all of my videos that I had on my phone and actually he got one year probation...[for] malicious destruction of private property." Ruby thought her neighbors were convicted in part because of her own reports back to the judge about their antics in mediation (including threats and taking down their pants, etc.), saying:

My case went back to court. It also went into one of the young ladies getting arrested and getting jailed for 30 days. And then I had to go to court for the other



young lady... [the mediation ending badly] showed the court which person was being the aggressor, ...It allowed the court to show who was actually telling the truth in the situation, by their actions. Because it should have been able to be resolved in mediation. That's my opinion. Yes. They were locked up.

Compared to the other cases, conflicts, and violence described by the other study contributors, Jasmine and Ruby's cases were described as having been the most one-sided. Neither understood why they had been targeted by their neighbor(s), and neither felt they had done anything unreasonable to escalate the dispute. In this way, the fact that the cases returned to court seemed appropriate, and the court outcomes seemed fair and just to these two victims.

Only one contributor who experienced a full mediation session did not decide to drop the charges in response. Jerrica, whose children had been threatened, explained: "The girl, she got in her feelings, she started crying and telling me she's really sorry. ... And she asked me, could I drop the charges? And I told her no.... the authorities told me that it's still going to be active and closed... she comes on my property, she can get locked up." In this case, the other mediation participant had convincingly threatened to physically attack Jerrica's daughter and niece, ages eight and ten, and she felt they were still in danger despite the woman's apologies in mediation. In a highly unusual detail, the third mediation participant phoned in from jail, and his verbal abuse led Jerrica to take this route.

Both Jerrica and Jack had protective orders in place against their fellow mediation participant, and both elected not to call police in the months following mediation when minor violations occurred. Jerrica shared:

We can't be near each other, we can't be in the same place at the same time.... She was across the street, walking by near... Everything was fine because she didn't run her mouth.... Because I was going to call the cops right away...I waited a little bit and see if she was going to come over here, and see if she was going to run her mouth, and she didn't. So I just left it alone and kept it moving.

Similarly, Jack declined to call the police on his former business partner when he technically violated the protective order, saying “you can call the police, but I didn't because there was no threatening stuff going on and it was only for a moment that we saw each other. ...it was just a fluke. It wasn't premeditated or anything.” The choice not to phone police in these two cases represented a choice not to get the other participant in further trouble, not to exact punishment, not to escalate toward possible further recidivism or violence. Having had a chance to talk things out in mediation may have played a role in this form of mercy as well.

The ability to request that the state drop criminal charges in their session was a critical or central purpose of the mediation for most contributors, and they were largely relieved to have charges pending against themselves or their fellow participant dropped. Looking at this mechanism independent of the other possible benefits of mediation, it may have a powerful effect on the ability of the intervention to prevent further violence, since it can function as an expression of mercy, and a de-escalation of the two mediation participants use of the threat of punishment against each other.

### ***No Violence After Mediation***

There was no further incident of violence and no return to court reported by all nineteen contributors to the qualitative interviews. When asked whether there had been

further violence or another assault incident with the other participant since mediation, all contributors responded with an emphatic “no.” Keisha said, “No. No problems. No, because we both know where each other live at. So, no one's popped out at my house. I didn't pop at her house. Yeah. There hasn't been any problems.” Gigi replied “No. No, no, no. No, no,” and Andrew said “None at all, no.” Shirley shared “No...never, never ever.” Many participants referenced that they were very confident that the violence had been a one-time thing. These responses came from those whose mediations were regarded as successful, and those who were not, and across all relationship types and conflict issues.

When asked about whether there could have been further violence had it not been for mediation, and a few said no, there would not have been violence no matter what. However, several felt that it could have escalated. For example, Lil Bitz said others would have continued the violence: “Probably so, because when I told my oldest daughter about it and my oldest daughter knows [Shirley]'s a bully and that her daughter is a bully, my oldest daughter would've got involved and I didn't want that to happen. That's why I chose mediation.” Imani also felt there was a danger of more violence from the other participant’s mother, saying “this definitely wasn't the mom's first rodeo. She was already on probation at the time that the charges were drawn up and the court wound up actually taking a warrant out for her arrest ... So, the mom definitely has a history of violence and I think violence would definitely persist with her.” Regina also felt that her ex’s new partner could have done more violence: “She has a history of starting stuff with people and calling her little cousins and all them to come and fight for her battles. It's a history that she has on the street, period, at bars, clubs. ...This is what she has done in the past. This is nothing new to her.”

Multiple reasons were cited for contributors' beliefs that violence and court charges would not recur between them. Contributors' thoughts were complex and layered, often citing multiple reasons working together. Several contributors talked about factors other than mediation that worked to suppress further violence, including criminal justice system protection, returning violence for violence, long relationships, and the need to protect career aspirations. Two contributors felt that the criminal justice system had protected her from further harm when a prematurely terminated mediation had failed to resolve the conflict. Jasmine said that the car-smashing got worse after the mediation walk-out, but better when her neighbor was convicted of malicious destruction of property and given one year of probation: "once the mediation was over, it was still a problem, but since court has been over, there has been no issues." Jerrica also felt the criminal justice system was the reason the threats ended: "No, they left me alone. Because if it happens again, ... I'm going to go to the Commissioner's Office and press charges again, ... she will have to go to jail." Both of them felt protected and well-served by the justice system.

Regina had a disconfirming response, asserting that when she fought back in the altercation between her and her ex's new partner, she squashed the conflict, saying "I'm pretty sure she'll never throw another umbrella at me because she know I'm going to slap her with that same umbrella, .... I knew it wasn't going to happen again...Yeah, she got the point. Don't do nothing. Don't. I'm not the one for you to be picking with....I'm pretty sure you learned your lesson, you'll never do it again." For her, fighting back with violence ended the violence.

Aisha also felt that her mediation did not help with reducing violence, and thought her career aspirations were a protective factor, asserting:

We agreed to drop the charges because we wanted to further our own self. It really had nothing to do with mediation. It's kind of a show. Okay, I know that if I go through this mediation, I can have some type of leeway. I can get the charges dropped, then we don't have to go back to court. At the end of the day, it's not really solving the issue because we still pretty much hate each other. You know what I'm saying? I see her again, we don't get along, but we both know that we have career paths, that if we decided to fight again or whatever the case may be, we'd go jail at the cost of our careers.

In this case Aisha and her fellow mediation participant realized that there would be too many criminal justice system consequences at a cost to their career aspirations to risk more fighting.

Shirley had had a very positive experience of mediation and added that further violence was impossible due to their long relationship, and the multiple ways their lives intersected in a small city. She and Lil Bitz were former neighbors, current coworkers, and their now-grown daughters were longtime friends. Asked if there could be later violence between them, she said "No. Our families know each other. We lived across the street from each other. I never had any problem with her." As with Keisha, the multiple connections were protective factors against violence, and mediation helped to underline the value of those relationships, even if they were not fully healed or reunited in active friendship.

Some contributors felt mediation had been central in why no further violence occurred. Keisha reflected,

I wouldn't say it would be blood spilled, but ...she stated, 'If I see you, I'm going to get you.' She probably would have got me. I didn't want that to happen. I guess [mediation] resolved a lot for her because for me, I wasn't a person who ... I wasn't trying to battle on. I guess she figured, 'Okay. We came to resolve issue. We don't need to have any ongoing problems.'

Caleb also felt a positive mediation prevented revenge violence: "I was a little worried going into mediation beforehand about this individual having face-to-face contact with me and if this doesn't go well, what's that going to look like for me afterwards. But, thankfully we had a positive outcome and I didn't feel worried about that afterwards."

As mentioned above, Caleb had been motivated to use mediation with a stranger (rather than to request that charges be dropped) to underline the seriousness of what the other participant had done, and this was echoed by Tanya, who said mediation set a clear boundary with her neighbor: "To be able to talk. I guess or have it in the open and let them know I'm not going to let you hurt me... I think she pretty much understand that I'm not playing with her... She don't mess with me no more. I think it worked. I think mediation is okay." In both of these cases, contributors had initiated the charges against the other mediation participant but then asked that they be dropped in mediation.

Mediation provided a level of gravitas, formality, and accountability for Caleb and Tanya to show the person who assaulted them how serious the situation was, while at the same time allowing them to spare the person criminal justice consequences.

According to these contributors, a positive mediation has the capacity to work together with many other factors to suppress further violence between participants by resolving underlying issues, providing space for accountability, and/or by providing an off-ramp when connection to the criminal justice system has itself escalated the conflict.

### **Summary of Qualitative Findings**

There were no further incidents of violence, assaults, or court charges reported between any study contributor and their fellow mediation participant after mediation. In being referred out of criminal court to mediation for an assault, study contributors thought the criminal justice system was capable of protection and of worsening the danger and damage of the violence or assault, and in cases of mutual assault, respondents were eager to cut ties with the justice system using mediation. For community mediation to resolve tough conflicts like these, contributors needed: safety; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators. Outcomes for these contributors included no further violence, little interaction, and for some: loss of housing or work, emotional closure, or endings that they needed to happen. Some felt there had been a high likelihood of further violence after their assault, and others thought it was a one-time occurrence. The fact that violence stopped was sometimes ascribed to fear of criminal justice action or the initial assault itself putting someone in their place, and in several cases to the experience of resolving their conflict in mediation.

### **Mixed Method Integration of Findings**

Mixed method findings are presented together in a matrix as Table 12. In both the qualitative and quantitative findings, very few people returned to court or reported more violence, whether they used mediation, or not. In both the quantitative dataset and the

qualitative interviews (especially Andrew and Henry), there was some evidence that entrenched conflict between couples with assault charges is not resolved through mediation, however.

**Table 12**

*Mixed Method Findings Integration Matrix*

Question	Quantitative Findings	Qualitative Findings
<p><b>RQ1:</b> Among misdemeanor assault cases in district court, does community-based mediation prevent return to court between participants after six months, versus the usual process?</p> <p><b>RQ3:</b> How do mediation participants perceive the impact of the experience of mediation on their inclination to use violence?</p>	<p>10% of cases receiving mediation returned to court</p> <p>11% of cases treated as usual returned to court</p> <p>This difference was not statistically significant, even when controlling for attitude, relationship and length of conflict</p>	<ul style="list-style-type: none"> <li>• No cases of any type had further violence or court charges following mediation.</li> <li>• Regina, Imani &amp; Lil Bitz said violence would have escalated without mediation.</li> <li>• Keisha &amp; Tanya thought mediation kept them from being attacked again</li> <li>• Jerrica and Jasmine said court conviction protected them from further crime</li> </ul>
<p><b>RQ2:</b> Which case-level characteristics (if any) are associated with lower recidivism following community-based mediation?</p>	<p>Holding a hopeless, win-lose attitude about court and mediation was associated with return to court.</p>	<p>No distinctions can be made, since no cases of any type had further violence or court charges. Recidivism was not reported for neighborhood, family, or workplace disputes.</p>



**Table 12 continued**

<p><b>RQ4:</b> what, if any, case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?</p>	<p>7 of 8 assault cases returning to court within 12mos were current or former couples. Several had DV protective orders, all had called police prior to mediation</p>	<ul style="list-style-type: none"> <li>Henry and Andrew, the two husbands interviewed, both reported that mediation did not resolve the significant conflict within the couples during acrimonious divorces.</li> </ul>
<p><b>RQ5a:</b> If couples with assault charges were screened out, how would the return to court differ between misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment;</p>	<p>Without couples (<i>n</i>=79), 3% of assault cases receiving mediation returned to court 7% of assault cases treated as usual returned to court</p>	<ul style="list-style-type: none"> <li>Andrew valued that the process had (free of charge) produced a fair parenting plan agreement presented to court and still in use two years later, but did not attribute current peace with his ex to the process of mediation.</li> </ul>
<p><b>RQ5b:</b> If couples with assault charges were screened out, how would the return to court differ between and all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment?</p>	<p>Without couples (<i>n</i>=135), 6% of all cases receiving mediation returned to court 10% of all cases treated as usual returned to court</p>	<ul style="list-style-type: none"> <li>Regina &amp; Erika's longstanding love triangle assault cases were mediated in the absence of the man involved, and mediation helped by squashing court charges, but did not resolve the underlying issues.</li> <li>Nikia was freed from a toxic love triangle via mediation</li> </ul>

Within the qualitative data, a long list of benefits to using mediation were cited, going beyond the narrow outcome of returning to court. Mediation participants prized freedom of expression, clarity about the incident and responsibility for it, non-bias, convenience, solutions, getting re-connected to loved ones, and the privacy that

mediation offered, and that they in many cases felt court could not offer. They also valued avoiding the challenges of the impersonal court process and the punishment and collateral consequences of criminal charges, and wanted to show mercy by helping the other participant avoid them as well.

Some qualitative and quantitative findings were divergent. For example, none of the nineteen qualitative interviewees went back to court, and none had further violence or assault, whereas 10% returned in the secondary data analysis. (In many cases there was a longer post-intervention window for the qualitative contributors, so one would have expected even more recidivism than on the quantitative side.) Secondly, among the qualitative study contributors, couples were no more likely to have negative case outcomes of further violence or return to court than other types of disputants, unlike in the quantitative dataset.

## Chapter 6: Discussion

This dissertation study used secondary data analysis of survey and court record data ( $n = 162$ ) as well as qualitative interviews ( $n = 19$ ) to explore the following research questions on mediation and violence:

RQ1: Among misdemeanor assault cases in district court, does community-based mediation prevent return to court between participants after six months, versus the usual process?

RQ2: Which case-level characteristics (if any) are associated with a lower recidivism following community-based mediation?

RQ3: How do mediation participants perceive the impact of the experience of criminal court-mediation on their inclination to use violence?

RQ4: What case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?

RQ5a: With assaults between couples excluded, how would the return to court differ between misdemeanor assault cases receiving mediation and misdemeanor assault cases receiving the usual court treatment?

RQ5b: With assaults between couples excluded, how would the return to court differ between all misdemeanor cases receiving mediation, and all misdemeanor cases receiving the usual court treatment?

Quantitative and qualitative findings indicate that among criminal misdemeanor assault cases in five counties of Maryland District Court, return to court and further assaults were low among mediated cases and those treated as usual. There was no

statistically significant difference between the rate of recidivism for mediated cases and those treated as usual in the comparison county. However, mediated cases that returned to court were nearly all current or former couples. Had couples with assault charges been excluded from receiving mediation, only one mediated assault case would have returned to court, and among all misdemeanor cases, recidivism would have been reduced by nearly half.

## **Interpretation of Findings**

### **Interpreting Quantitative Findings**

In cases of misdemeanor assault in District Court in two Maryland counties, there was no statistically significant difference between mediated cases and those in a neighboring county which were treated as usual, in bivariate, multivariate or weighted multivariate analyses. This is both an important finding in its own right, and a surprising finding in its divergence from earlier analyses of the full version of the dataset, where mediated cases were far less likely to return to court.

### ***Mediation and Assault Recidivism***

On RQ1, descriptive percentages show that mediation participants with assault charges are about as likely to return to court (10.1% recidivism) as those whose cases are prosecuted, or treated as usual (10.8% recidivism), after six months. Bivariate and multivariate analyses of this difference were not statistically significant, even when controlling for participants' attitudes toward conflict, conflict length, and being a couple in logistic regression, or when weighting applicable variables with propensity scores, through inverse proportion of treatment weighting. This is a markedly different finding than the primary analysis of the full misdemeanor dataset, which following propensity

score matching along the variables of cross-charges, type of charge, attitude toward conflict, prior conversations, and being spouses, the predicted probability of returning to criminal court after one year was 1.7% for mediated cases and 8.2% for cases receiving the usual court process (Maryland Judiciary, 2016). It is also divergent from previous studies of individual criminal recidivism following community mediation (Davis, 2009; Flower, 2014) and other forms of face-to-face conflict resolution or restorative justice interventions (Armour, et al., 2005; Gilligan & Lee, 2005; Jonas-van Dijk, et al., 2020; Koss, 2014). The multivariate findings are likely influenced by a statistically underpowered analysis, and on a bivariate level, the outcomes for mediated and unmediated cases are plainly similar. Exploring research question two, logistic regression analysis showed that both participants' hopeless, win-lose attitude toward conflict, and being a couple predicted return to court at a statistically significant level.

Next, a fourth research question was added, to chart the characteristics of those mediation participants who did return to civil or criminal court within the following year. Mediated cases that returned to court were nearly all (seven out of eight cases) current or former couples. Had couples with assault charges been excluded from receiving mediation, only one mediated assault case would have returned to court.

The number of couples being served by the mediation center in this dataset was surprising, given that situations of domestic violence are generally screened out of receiving mediation services in criminal court settings at intake. In this dataset, cases with *ex partes* or open custody cases were reportedly screened out from services in the treatment county and excluded from the research in the comparison county, but couples

(including co-habiting couples) with assault charges were allowed in general (Maryland Judiciary, 2016).

Finally, a fifth research question was taken up, to examine what the recidivism percentages would be had couples been excluded. Among non-couples with assault cases ( $n = 79$ ), 2.6% of mediated cases would have returned to court, compared with 7.3% of cases which received the usual court process. Turning back to the full dataset of all misdemeanor cases, after screening out couples with assault charges, the rate of returning to civil or criminal court remains about the same (11%) for cases with all charges receiving the usual court process, and drops from 10% to 6% for cases with all charges receiving mediation.

This exploratory misdemeanor assault mediation data indicates that study couples who use mediation returned to court more than noncouples, and that among those who used mediation, several couples with assault charges returned for domestic violence protective orders. When examined alongside some of the qualitative findings below, it may be additionally true that one or more two-hour mediation sessions are not sufficient to serve the depth of conflict that a couple who has experienced an assault is coping with.

It is a matter of great and increasing controversy whether couples who have experienced violence can be well-served by mediation and other voluntary face to face conflict resolution and restorative justice interventions. Following waves of mandatory arrest policies for domestic violence police calls in the 1970s-1990s, research began to show that survivors were not made more safe, and were perhaps further endangered, by punitive criminal justice responses (Goodmark, 2004). At the same time, mandatory arrest policies were disproportionately damaging to families of color (Fedders, 1997).

What has followed are calls to decriminalize domestic violence, reduce application of punitive responses, or to add on more collaborative responses, including restorative justice and mediation, in addition to the usual batterer intervention programs (see Barocas, Avieli, & Shimuzu, 2020; Hopkins, Koss, & Bachar, 2004; Mills, Barocas, & Ariel, 2013).

Meanwhile, mediation of custody issues has been mandatory for divorcing parents in many states since the early 1980s, and community mediation centers often take such cases. Two contributors to this study had also participated in this type of “Parenting Plan” mediation. In studies of these cases, prevalence of self-reported intimate partner violence ranges from 50% (Yoshimura, 1995; Joyce, 1997) to 90% (Beck, et al., 2011) or 95% (Cleak, et al., 2018) for divorcing partners. Although early literature decried mediation for those experiencing IPV, as it may jeopardize safety and coerce mediated agreements (Felstiner & Williams, 1978; Harrington & Merry, 1988), a rich research literature now supports use of custody mediation for IPV survivors who prefer it (e.g., Holtzworth-Munroe, et al., 2020; Paranca, 2012; Raines, et al., 2016; Rossi, et al., 2017; Ver Steegh, 2003), with screening (DePorto & Miller, 2006; Holtzworth-Munroe, et al., 2020; Michigan Supreme Court Office of Dispute Resolution, 2014; Rossi, et al, 2015) and safety recommendations (Ellis & Stuckless, 2006; Neilson, 2014) evolving quickly, as detailed below under Implications.

### **Interpreting Qualitative Findings**

Qualitative interview data about contributors’ experience of criminal court-referred mediation’s ability to reduce violence included the following themes.

1. The justice system was capable of protection and of worsening the danger and damage, and in mutual cases, respondents wanted to cut ties with it.

2. Mediation could only resolve the conflict if offered: safety; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators.

3. Outcomes included little interaction, and for some: loss of housing and livelihood, emotional closure, or endings that needed to happen, and no further violence or court charges reported in any cases.

### *Justice System*

**Levels of Voluntariness and Coercion.** Contributors talked about varying levels of agency and decision-making power in the diversion of their case from criminal court to community mediation. Most felt the choice was up to the two participants in the mediation, some felt pressured by the Assistant State's Attorney, and three reported that their case was ordered to mediation from the bench. A key, definitional principle of mediation from its inception has been that mediation participants must come voluntarily to the process in order to come up with their own solutions and enter into an uncoerced agreement (Garofalo & Connelly, 1980; AAA, ABA & ACR, 2005). The data bring up several tensions presented by the problem of coerced mediation in criminal cases, including not just the validity of its contents, but the physical and psychological safety of the assault victim ordered or pressured to attend with his or her attacker. In a criminal case, these issues are of heightened importance and urgency.

In Maryland, where custody and visitation mediation is required in most divorces involving children under Maryland Rule § 9-205 (Maryland Code, 2012), court-ordered parenting plan mediation is very common for private practitioners and community



mediation centers. In such cases, mediators often explicitly say to participants that participation or engagement in the mediation session is voluntary even if attending the session was not. This data about coerced attendance at mediation raises the question of whether such an explicit statement may need to be added to the opening statement in cases referred from criminal court, and whether more screening is needed during the mediation center's intake.

Further, in Ruby's case, reports of her failed mediation session were brought back to court, and she felt they influenced the judge making a conviction. Mediation contents are inadmissible in court hearings, as protected under The Maryland Confidentiality Act (Maryland Code, 2020). Assuming the mediation center kept the information private, participants may flout that rule and share it with the judge, or with the attorneys who tell the judge. When mediation contents are used illegally as leverage in a court case, it undermines the integrity of mediation, as well as the trustworthiness of future mediations. In addition, this bears very heavily on the question of whether coerced diversion, failed diversion, or in this case both, can make things worse for defendants such as Ruby's neighbors, a major critique of several forms of criminal justice diversion in general (Nolan, 2003), and mediation specifically (Brown, 1994; Hedeem, 2005).

Henry related that his soon-to-be-ex-wife was very surprised to learn that when a victim takes their own initiative to file criminal charges with the court commissioner's office, they do not have the right to change their mind and have the charges dropped. Unlike in civil court, where cases are brought by plaintiffs against defendants, criminal cases are brought by the state against defendants, and only the state can approve diversion or drop charges (LLI, 2021). This links to the earliest motivating philosophies

of the community mediation movement, and later, the restorative justice movement, with Christie (1977) asserting that many conflicts should be thought of as the property of the community, not the state. In itself, a referral to mediation can be a way to step outside the more coercive criminal justice system. Mediation for Henry and his wife meant regaining control of their own family conflict.

**Challenges of Court.** In complaining about the challenges of pursuing, or managing, a criminal case in District Court, contributors explicitly and implicitly outlined some of the benefits of using community mediation, as well as questions about mediation's suitability for some cases or participants. Keisha was grateful for the ability to schedule mediation at participants' convenience, and get it over with, having been to numerous court dates that jeopardized her employment and her coworker's cancer treatment. This underlines a sharp contrast between court practices and community mediation, which is often scheduled at the participants' convenience, including evenings and weekends (Charkoudian, 2006; Harmon-Darrow, et al., 2020; Jeghelian, Palihapitiya & Eisenkraft, 2014). Others complained about the expense of court (Andrew who had a divorce pending when assaulted by his ex-wife) and said it created a win-lose battle where the loser may come out with nothing (Jack who had multiple cases pending). Here again, community mediation was valuable in its contrast with court, being offered free of charge, and with time to work out a mutually beneficial solution. This is consistent with literature on the affordability of mediation (Donnelly & Ebron, 2000; Pearson & Thoennes, 1988; Wissler, 1997; Wissler, 1999), and the benefits of the community mediation movement's core value of offering mediation free of charge (Charkoudian, 2006; Mawn, 2019). Regarding mutual benefit, empirical research has also shown that

like Jack and Andrew, participants in court-referred mediation are satisfied with the fairness of the outcome (Donnelly & Ebron, 2000; Pearson & Thoennes, 1988), and that distributive justice and equity of benefit is objectively accomplished, with issues gratified for each participant in mediated agreements (See Zubek, et al., 1992, in Hermann, 2006).

**Protecting Themselves from Punishment or Criminal Charges.** Fear of criminal punishment and criminal charges and their collateral consequences were a prominent motivating factor for most participants, and that motivation was often stronger than the desire to resolve the underlying conflict. Aisha did not care to make peace with her enemy, and both wanted to avoid a criminal record due to career aspirations in the health care and child care fields. Imani was terrified of harsh punishment due to her pre-existing criminal record, having just completed probation following the violent breakup of a violent marriage. Trina and Shirley's reputations were very important to them: they never had trouble with the law and were horrified that they might have a record for the first time, especially when they did not feel they were at fault in their workplace disputes. Henry had just completed the process of getting his record expunged following mediation.

Zeroing in on the question of violence prevention and reduction, this issue is critical. Not only can "violence beget violence" as Martin Luther King (1960) and Gandhi (1948) warned, punishment can beget more wrongdoing. If a wrongdoer is sent to jail for an assault, it could escalate violence between parties due to retribution or escalate criminal behavior in the offender's life course, as s/he learns from other criminals in jail (learning theory) or by identifying as a criminal (labelling theory) (Doerner & Lab, 2015). Contributors reported using the criminal justice system, particularly the court

commissioner's office, as a way to seek not only protection, but punishment. Usually the other participant in the conflict further escalated by filing cross-charges against the other as revenge (to tarnish their reputation, to cost them their job or license) and as protection against the other person's escalation of the dispute. From this perspective diversion itself is a tool in preventing and reducing further violence in appropriate cases, regardless of whether the participants take full advantage of the mediation service.

Misdemeanor diversion also has critical social justice ramifications as defendants of color and lower income defendants are disproportionately punished for misdemeanor crimes (Kohler-Hausman, 2018; Natapoff, 2018). Diversion to a free mediation service to work through the conflicts underlying a misdemeanor assault is a tool for decarceration (Epperson & Pettus-Davis, 2017) and social and racial justice, giving alternatives to criminal justice involvement to groups overrepresented in the justice system.

**Formal Mercy for the Other Person.** Al, Caleb and Keisha were motivated to try mediation because they wanted to avoid the other participant being punished. Keisha wanted to protect her mother figure battling cancer, Al couldn't put a woman or a friend in jail, and Caleb did not believe the ability of the retributive criminal justice system to reform anyone, or even deter crime. At the same time, Caleb, Tanya, and other contributors wanted a way to underline the seriousness of what had happened, hear the other person take responsibility, and hold them accountable. Mediation provided formality and gravitas without criminal punishment or charges. This is an area that could benefit from further exploration in the literature on community mediation.

## *Mediation*

**Safety.** Several contributors talked about feeling unsafe, assaulted, scared, and traumatized during mediation. Jasmine, Ruby and Trina felt threatened and traumatized, but Erika endured screaming and felt unfazed. And by contrast, several mediation participants described loving a feeling of safety and peace in their mediation. One of these was Jack who had a restraining order against his estranged business partner and was meeting for mediation on the lower level of the courthouse, with security guards outside. Jasmine said she wished there had been a security presence at her mediation. This raises a question about whether mediation sites with added security, or day of trial mediation in the courthouse, might feel safer to participants who have experienced an assault. However, it is important to make the distinction that the data did not support that participants actually are safer at a courthouse in this type of case, since Ruby was threatened and chased at both the mediation site and courthouse. Mediating inside courthouses is sometimes avoided by community mediation centers, who prefer to mediate in the neighborhood where the dispute occurred (Charkoudian, 2006; Harmon-Darrow, et al., 2020; Jeghelian, Palihapitiya & Eisenkraft, 2014).

Trina had several ideas about how mediators could have been more helpful to her. Some were against the mediator value of nonjudgment, including telling people to be quiet or sit down or to give them a consequence for insulting the other participant. Others were possible within a neutral process, such as calling for a break, asking to reschedule on another day, and walking each participant out separately after mediation.

Providing a trauma-informed mediation process and atmosphere to survivors of violence is critical, especially since community mediation and restorative justice can be

key strategies in healing trauma (Andruczyk, 2015; Randall & Haskell, 2013). Typically, trauma informed practice means maximizing participants' experiences of safety, trustworthiness, choice, collaboration, and empowerment (Fallot & Harris, 2008). In many ways, Inclusive mediation is already deeply aligned with trauma-informed values, in that the service is explained in detail before the session and at the opening, formal consent is given multiple times, deep nonjudgmental listening is offered, and all solutions are participant-driven, with advice and suggestions from mediators prohibited (Harmon-Darrow, et al., 2020). Some work has been done on tailoring restorative justice and mediation services through a trauma-informed lens (Andruczyk, 2015; Mediators Beyond Borders, 2021; Randall & Haskell, 2013). At the same time, the question of trauma-informed mediation is a controversial one, since some early attempts at creating a traumagenic model for community mediation (Tornbom, 2018) have stipulated things like quiet or victim-centered-ness that are antithetical to mediation's strengths (free expression) and values (neutrality) (Harmon-Darrow, 2019). This is an area that needs more work and study.

**Free Expression.** Of all the positive qualities of a mediation session itself that contributors listed, freedom of expression was mentioned most frequently. For Gigi and Imani, the conflict had blocked communication so severely they had not been able to explain themselves to the other, and badly wanted to. Some contributors mentioned conflict starting or escalating online through social media, such as Regina's "keyboard killer," so mediation was the first time they could talk in person with a level of accountability that is absent in the false anonymity of written online communication. The freedom to vent, and the ability to speak directly to the other participant were both

mentioned as strengths of mediation versus court by Tanya, Lil Bitz and Jack. On the question of trauma-informed mediation, free expression was lifted up by Trina, among the most traumatized mediation participants, as mediation's great strength. When Henry was limited from expressing himself by his overtalking soon-to-be-ex-wife, he felt cheated, since he thought he deserved to get things off his chest as much as she did. Whether absent or present, contributors spoke passionately about wanting free expression, consistent with literature on participants' need for free expression in mediation (Donnelly & Ebron, 2020; Maryland Judiciary 2015a; Maryland Judiciary, 2015b; Maryland Judiciary, 2016; Pearson & Thoennes, 1989; Wissler, 1999). Free expression is seen as one of mediation's core values (Furman & McCrary, 2015; Harmon-Darrow, et al., 2020), and limiting free expression of emotional content in alternative dispute resolution (as happens in court) has been critiqued as anti-feminist and racist, particularly limiting the full participation of women and people of color (see, e.g., Grillo, 1991). As mentioned above, guidance on balancing the mediation value of free expression and the values of trauma-informed mediation are sorely needed in the realms of theory, empirical research, and practitioner education.

**Clarity about the Incident and Responsibility.** Another strong point of the mediation process for participants was the ability to get clarity about what happened during the assault, and in the events leading to it. Caleb, Jerrica, and Ruby hoped to confront their attackers and explain the harm they had experienced, and for their co-participants to take some responsibility. For Caleb and Jerrica, this did occur, and they thought of their mediations as largely successful. For Ruby, it did not occur, and she thought of her mediation as the failed offering of a promising service. Clarity about the

actions of third parties and instigators, such as Keisha's gossiping coworker and Nikia's cheating boyfriend, was also prized as a key benefit of mediation. When an apology was made, as in Jerrica, Lil Bitz, and Caleb's mediations, it was all the more valuable to them, but clarity alone made a huge difference even in the absence of an apology. When there was no clarity about the incident, this was a complaint, as in Regina's mediation, where the assault was never brought up or discussed. Contributors endorsed mediators asking questions to get the participants talking about the incident itself, whereas mediators are often trained to ask questions focused on underlying issues (e.g., Frenkel & Stark, 2018).

**Getting to Solutions.** Numerous contributors did not receive the full mediation process, including brainstorming solutions for the future. Some mediation sessions ended early, some ended after multiple sessions without getting to solutions, and some skipped straight from the listening stage to requesting that the state drop criminal charges, without developing any solutions to the conflict. Gigi, who did brainstorm solutions, felt that this component of the mediation helped her transform her relationship with her son. Aisha, who went straight to requesting the charges be dropped, said: "It's not solution-based if you're just going to sit here and argue, ...you're not really resolving it. You're just giving us ultimatum. We can sit here and argue, or we can sign off on people and drop the charges. But that doesn't mean that the issue is resolved....So how you want things to be different in the future?" At the same time, she felt that she had no future with the other participant in mediation, such that developing solutions for the future would have been a waste of time. Brainstorming and developing solutions a central role of mediators through history (Folberg, 1983), in current model standards (AAA, ABA, & ACR 2005), and in the practice approaches of facilitative (Fisher, Ury & Patton, 2011), transformative



(Bush & Folger, 2004), and inclusive (Harmon-Darrow, et al., 2020) mediation. The inclination to want to find one's own solutions is consistent with literature on civil court mediation where control of the process is a key factor in people choosing mediation over adjudication (Shestowsky and Brett, 2008).

**Active, Neutral Mediators.** The most infuriating thing about mediation for several contributors was the silence of mediators, particularly when the mediation heated up with anger. Sometimes what they wished mediators had done instead was to protect them in ways that were not neutral. Finding neutral ways to stay active in the mediation is important to participants who are struggling, and doing more inclusive listening, and asking more open-ended questions are both options that could address both the need for action and the value of neutrality. Andrew, Caleb, Imani, and Gigi all praised their mediators' nonjudgment, their lack of bias, and their ability not to be drawn into the feud, or the name-calling that happened at the table.

**Fellow Participants' Willingness and Ability to Mediate.** Erika and Ruby felt that their fellow mediation participants were too uncivil, too hateful, too reactive or too emotionally scarred to be able to use the service of mediation, no matter who the mediators had been or what they had done. Both had little faith in mediation from the outset, and Ruby asked the judge and ASA not to send her to mediation. It could be that when mediation is truly voluntary, this problem solves itself, because only people with some degree of faith in the process are in attendance. Jasmine, Nikia, and Andrew felt that their fellow mediation participant was approaching mediation in bad faith, without an open mind, or willingness to seek resolution. It remains an open question how to screen for a willingness to come to resolution when doing case intake. The fact that mediation

does not assume resolution as a foregone conclusion, but allows participants to genuinely self-determine whether to come to agreement, is one of its strengths, something that is critiqued about other processes (Cobb, 1997; Hanan, 2016).

### ***Outcomes***

**Impacts on Work and Housing.** Jack had been made homeless by the break up of his business, Ruby felt chased from her longtime neighborhood, Imani left her company, Lil Bitz banished herself to the night shift, and Trina teared up, still out of work over two years later. These stories underline the serious repercussions that interpersonal conflicts can have in the lives of those involved, even when the case appears in the criminal justice system at the least consequential level. First, these stories raise the question of whether big-picture topics were brought to light in mediation for possible brainstorming, if the participants wished. Second, Shirley appreciated learning about other community resources through the community mediation center, and these stories may be a reminder that only a sliver of the needs in a mediation participant's life following an assault case can be met by the mediation session itself.

**Emotional Closure and Ending Relationships.** For most contributors, very little interaction occurred after mediation, and they were largely glad about that. For most, the mediation seemed like a process of setting the terms of surrender to the conflict itself, and letting any future association go, sometimes happily and sometimes wistfully. Mediation for most of them was not repairing, but being able to let something go, and put it behind them, including making plans about how to stay out of each other's paths. Nikia said she felt extremely happy to have broken up with her ex-boyfriend, once she and his secret second girlfriend compared notes in mediation. Jack landed on his feet after breaking up

his business partnership, and, like Imani, felt his career was on a much better track after leaving that toxic arrangement. Caleb and Shirley talked about benefitting from emotional closure, leaving the conflict behind them after the winding paths they had to go through after the incident.

**Assault Recidivism and Further Violence.** There was no further violence and no return to court reported by all nineteen contributors to the qualitative study. All but one mediation participant did not fear any further violence and were adamant that no more could occur. This qualitative finding conforms with and expands previous quantitative studies of community mediation in the inclusive model, which has been shown to reduce adult criminal court recidivism for misdemeanor cases (Maryland Judiciary, 2016) and to reduce re-arrest and re-conviction following release from prison (Flower, 2014).

Keisha, Imani, and Lil' Bitz indicated that further violence had been a very real possibility after their initial assault, given the other participants' threats, their access to them, the anger of their own family members who wanted retribution, and the criminal histories of the other participants' family members, and all three felt that mediation had squashed the conflict. For most respondents, they felt the assault had been a one-time thing, and they had not feared further violence afterward.

Although several participants attributed the end of the violence to mediation, among other factors, Jerrica was clear that the criminal justice system had kept her safe, and Regina felt her having hit her children's step mother put her in her place so that she would never assault her again. Aisha knew that she and her fellow mediation participant would continue to avoid further violence because they needed to protect their career aspirations in health care and child care from the risk of criminal charges. This is

consistent with literature describing developmental pathways out of criminal behavior, including reduced violence as young people mature and take on responsibilities (e.g., Sampson & Laub, 1995).

In general, the lack of recidivism after mediation reported by these contributors is in line with studies of Inclusive mediation (Flower, 2014; Maryland Judiciary, 2016) and other face to face conflict resolution and restorative justice interventions and their ability to reduce adults' individual criminal recidivism (Armour, et al., 2005; Davis, 2009; Gilligan & Lee, 2005; Jonas-van Dijk, et al., 2020; Koss, 2014; Stewart, et al., 2018).

### **Mixed Method Integrated Findings**

Taken together, quantitative and qualitative findings indicate that among criminal misdemeanor assault cases in five counties of Maryland District Court, mediation has numerous benefits for participants, and may be effective at preventing a return to court or further assaults and violence particularly for non-couples.

## **Strengths and Limitations**

### **Strengths**

The strengths of the study presented here include a critical research question about the ability of a commonly-used conflict resolution intervention to affect the trenchant problem of low-severity violence in communities. Through mixed method design, the conceptual validity of the study was strengthened as each component tested and spoke to the other's ability to answer the questions at hand. The quantitative inquiry sought to answer key research questions about the ability of a conflict resolution intervention to prevent further violence and assault recidivism, while the parallel qualitative inquiry explored how, why, and what circumstances that prevention can occur,

from the perspective of participants' lived experience with violence and with the intervention. The quantitative data in turn provided a broader context within which to understand those qualitative experiences. The areas of convergence and divergence in the two inquiries were instructive. The fact that all mediations across the five counties under study quantitatively and qualitatively use the Inclusive model of mediation, with central mediator training offered at a state level, strengthens the internal validity of the findings.

Strengths of the quantitative analysis include the independent variable of community-based mediation services. Research of this sort on community-based mediation is rare and contributes to an advance in the field that has been called for by scholars (Eisenberg, 2015; Charkoudian, Eisenberg, & Walter, 2017; Hermann, 2006). In addition, the study highlights understudied second-degree assault cases, which is in fact the largest subset of violence nationally (Morgan & Oudekerk, 2019).

The secondary analysis of a dataset with a rigorous quasi-experimental research design was an appropriate application to the question of mediation's ability to prevent further violence, since to study behavior changes, longitudinal designs are appropriate, and to study an under-examined intervention, a comparison group design supported external validity (Thyer, 2012; Shadish, Cook & Campbell, 2002). Use of logistic regression was appropriate to the research question in assessing the impact of an intervention on a binary outcome like court recidivism. Weighting the groups using inverse proportion of treatment weighting helped protect against selection bias, which threatens validity in studies of voluntary services like mediation and had the advantage over propensity score matching of retaining use of all cases in the analysis. When findings were not statistically significant, in sharp contrast to findings from the full

dataset, additional research questions strengthened the study's ability to offer practical implications.

The qualitative inquiry had an ample sample size of nineteen for a meaningful inductive inquiry, especially given the small population under study (84 estimated cases statewide in 2017-18), and the sample was diverse with respect to jurisdiction type, race, age, gender, conflict type, participant relationships, police involvement and mediation agreement rate. A long follow-up period between intervention and interview (accidentally dictated by the pandemic) allowed for a much more telling window into whether violence can re-occur after mediation. Member-checking with contributors and peer review with mediators and mediation center directors and staff allowed improved the trustworthiness and credibility of the results (Padgett; Cresswell & Plano-Clark)

### **Limitations**

This study had a number of important limitations. The fact that all mediations across the five counties use the Inclusive model of mediation, with central mediator training offered at a state level, limits external validity, since results may not translate to other mediation practice approaches.

The quantitative dataset, once assault cases were isolated, had a small sample size for an analytic plan centered on logistic regression (the precise number of assault cases was not known before the study was approved), and this compromised statistical power. The absence of the original survey's demographics variables in the dataset did not allow for controlling for demographic variables like race and income, which is critical to a study with comparison groups across two demographically different counties. In addition, it is possible that the brief six-month follow-up window for the recidivism variable could

mask a sort of post-mediation “honeymoon period” without violence, after which conflict may have heated up again. It is also possible that in the treatment county, many cases were covered by the same one or two mediators, which could allow results to be confounded by mediator clustering effects.

Regarding sampling limitations, thirteen of nineteen qualitative contributors interviewed were residents of Baltimore City, which has an extremely high rate of violence, a court commissioner’s office where it is easy to file charges, and an overburdened District Court where a high proportion of charges are dropped. Importantly, self-reported violence is vulnerable to social desirability bias, as respondents may not wish to confess use of conflict tactics that are taboo or illegal (Engel & Schutt, 2012; Shadish, Cook & Campbell, 2002). These contributors spoke very openly and freely about the violence that brought the court case, but could have concealed further violence since.

The long retrospective frame of the study impacted recall of the details of the mediation session particularly, with almost two years since the intervention in a few cases. In addition, the long window of time between mediation and interview contained 5-10 months of the pandemic. Although initial reports on violence during the pandemic show sharp increases in intimate partner violence (Boserup, 2020; Taub, 2020) and community gun violence (Hatchimonji, et al., 2020), work shut-downs and quarantine might be expected to suppress low-severity community violence.

When a contributor had participated in a full mediation rather than one that ended prematurely, they had more comments about the process; therefore, these contributors’ views may be over-represented in the data analysis.

## **Implications and Recommendations for Practice**

The qualitative and quantitative analyses presented here support a number of practice recommendations for mediators, including: preserving freedom of expression; exploring all topics presented; asking a mix of questions to clarify the incident; offering the full solution stage to those who want to “just drop the charges;” balancing neutrality with action; offering support following a walk-out; and screening for fear of retaliation during the mediation. Mediation case intake and program management implications further include more and better screening for intimate partner violence, clear compassionate walk-out procedures, and making plans for quality assurance that could support participants’ feelings of safety in their mediation sessions.

Free expression was a key strength of mediation for most contributors. This implies an encouragement to protect free expression by allowing all forms of communication and by avoiding use of guidelines or interrupting the flow of communication. Relatedly, mediation participants talked about loving the ability to clarify the incident and responsibility for it in mediation. Often mediators are trained in the Inclusive mediation approach used here (Harmon-Darrow, et al., 2020), as well as more generally (Frenkel & Stark, 2018), to ask broadening questions about the issues underlying a conflict. These experiences seem to support mediators asking a variety of open and closed questions about the assault itself in such cases, when that is the focus of the participants. Study contributors specifically benefited from mediators asking questions in this area.

Several contributors talked about being angered by mediators’ silence, especially during times when the participants’ arguments were becoming heated. Some



acknowledged that since neutrality was a key value of mediation, mediators could not have stepped in to defend them. This highlights the careful balancing act that is needed in times of escalated anger in a mediation, to be active listeners while staying neutral. Mediators can continue to actively reflect back feelings, values and topics shared by the participants, and ask open-ended questions, rather than shutting down in the face of shouting matches. In understanding Trina's damning assessment above, ("they just sat there... Why were they there?"), it's interesting to note that on paper she was well-served. She attended a full mediation session, both participants vented (which she said she valued) and then they apologized and signed an agreement requesting that charges against each other be dropped. Part of what she wanted was for mediators to tell Al to be quiet. However, some of her ideas, such as calling a break or asking to reschedule for another day should be considered in similarly extreme cases and could be employed without losing neutrality.

Mediations that a participant terminated early were generally devastating to the abandoned participant, given all that was at stake with the conflict and the court charges. Some of the things the participants wanted from mediators in that moment are illegal for mediators to provide (e.g., a written report of mediation contents) per Maryland Rule 17-105 (Maryland Code, 2020), but some would have been very easy for mediators to provide (e.g., walking participants to their cars/transit separately). Once the mediation is over, compassion should win out over non-bias, and mediators might consider sitting and listening for a little while as the remaining mediation participant de-escalates from the experience. Mediation centers and other educators might consider training in conflict coaching to apply in such situations, as some centers around the state and country do

when there is a no-show, and one participant arrives. That is, in the event of a walk-out, if the remaining participant cares to continue, the mediators could switch gears and offer a one-on-one intervention where listening, questions, and brainstorming continue to support that participant working toward resolution of the conflict (see Jones & Brinkert, 2009; Levine-Finley, 2014; Ryan, Rockwell & Modell, 2016; Tidwell, 1997).

Many study contributors did not believe they had done any brainstorming or problem-solving in mediation and simply vented then decided to drop the charges. As mentioned above, developing solutions is a core function of mediation practice historically (Folberg, 1983), in current model standards (AAA, ABA, & ACR 2005), and in practice approaches such as facilitative (Fisher, Ury & Patton, 2011), transformative (Bush & Folger, 2004), and inclusive (Harmon-Darrow, et al., 2020) mediation. When solutions were not part of the process, participants complained about the lack of focus on the future, and when they were part of the process, participants were happy about it. A possible implication of these interviews is encouragement to continue offering the full brainstorming stage of mediation even when participants appear to want to simply ask the state to drop the criminal charges. This is controversial, as a mediator's role is to support participants' self-determination (AAA, ABA, & ACR, 2005). On balance, when both participants and the state have diverted the case in anticipation of resolving the underlying conflict, offering all stages of the process is the best path. A possible implication for case intake might be to more explicitly clarify at intake that the entire process will be offered to people, rather than an "ultimatum," as Aisha called it, to decide whether to request that charges be dropped in the court case.

The implications of many of these interviews are for mediation center case managers to continue with basic good practice in community mediation case intake, such as scheduling mediation sessions at times and places convenient to the participants (Charkoudian, 2006; Harmon-Darrow, et al., 2020; Jeghelian, Palihapitiya & Eisenkraft, 2014). The cautionary tale of Ruby, whom a judge ordered to mediation over her strenuous objections and fear of her neighbors, is a reminder that mediation case managers must independently verify that every party voluntarily consents to mediation, and centers should send cases back to criminal court referrers in the absence of that consent (AAA, ABA, & ACR, 2005; Hedeem 2005).

The quantitative and qualitative data offer a challenge to improve screening for intimate partner violence among couples with assault charges. It is ethically important to screen out cases with ongoing violence and a dynamic of power, control and fear, and this study may indicate that such cases may end up re-escalating and back in court even if the mediation is successful on the surface. In practitioner review sessions about these findings and recommendations, centers shared their universal screening protocol about fear of retaliation, which is already taking place at the mediation centers participating in this study. However, mediation participants could benefit from an additional layer of screening about intimate partner violence specifically. This is very challenging since survivors often conceal their abuse from mediators (Feresin, et al., 2018) and have numerous reasons to do so, including protecting themselves, their partner, and fear of losing their children (Bingham, Beldin & Dendinge, 2014).

Intimate partner violence screening tools specific to mediation intake are plentiful and fast-evolving, with many publicly-available options (see particularly Holtzworth-

Munroe, 2020; Michigan Supreme Court, 2014) that may include safety-planning guidance based on response levels (Ellis & Stuckless, 2006; Neilson, 2014) and may take into account the many forms of intimate partner violence, including the stereotypical pattern of coercive control, but also more mutual, defensive, or situation-specific forms (see Kelly & Johnson, 2008; Jaffe, et al., 2008). In one widely-touted model, a mediation center can partner with a domestic violence service provider to have an advocate unaffiliated with the mediation center verify that the survivor truly feels comfortable participating and negotiating in her or his own interests (DePorto & Miller, 2006, also described in Paronica, 2012) before proceeding.

Although it is usually the role of the intake staff in a community mediation center to screen for intimate partner violence, this data is a reminder that mediators may not be able to assume that screening has been successful in identifying cases of intimate partner violence. Therefore, one of the practice implications of these findings is that mediators need to remember to be assessing couples for fear of retaliation while at the mediation table, and can end a mediation when it is discovered. On their own, mediators may identify less than half of the IPV cases that formal screening such as that described above would (Ballard, et al., 2011).

At the same time, there is a separate implication from the interviews with Andrew and Henry that, even in cases where there does not seem to be a pattern of intimate partner abuse, mediation may not be enough to resolve an entrenched conflict between couples. It is not clear if this is because of the brevity of the intervention, the neutrality and nonjudgmental stance of the mediators, or because a problem-solving model of mediation does not adequately uncover and heal the underlying issues. Possibly these two

couples used mediation at a stage when it was too late to choose resolution or reunification. More exploration may be needed on the subject of how mediation serves couples. In the meantime, community mediation centers are and can be hubs for accessing information and referral to other types of services (Charkoudian, 2006), such as couples or family counseling (as mentioned by Shirley), which could provide a longer, more therapeutic approach if the participants desired.

Next, implications for participants' feeling of safety in mediation are an open question. Ruby, Jasmine and Trina felt very unsafe with their irate fellow mediation participants, and Jack, who had a restraining order against his, felt very safe, due to his location in the courthouse. While some contributors suggested mediation host sites with security guards, the interviews included stories of fearful threatening experiences in locations with security, including further court hearings at courthouses with armed guards. Practitioners in the practitioner review session asserted that skilled mediators, supported by improved quality assurance, may be more effective at creating a sense of safety in mediation than armed guards. In addition, training in improved, or more consistently-applied safety practices can be offered to mediators, including walking participants out separately when they are fearful.

### **Responding to Theoretical and Policy Critiques and Implications for Theory-Building**

The practice of community-based mediation is undertheorized in general, and particularly within the context of social work literature, despite its being practiced by the earliest social workers. Some of the founding community mediation programs began in

the context of criminal court diversion (Warhaftig, 2004), a classic mediation application that allows for examination of several of community mediation's theoretical roots.

These results uphold the use of conflict theory and conflict resolution theory to understand mediation's ability to impact violence. In the quantitative findings, participants' attitudes toward conflict before the mediation predicted recidivism, such that when a mediation participant had a more hopeless, win-lose stance toward conflict and mediation, they were more likely to return to court. This is expanded by the qualitative interviews, where contributors harnessed conflict for positive change, including Gigi's improved family relationship, Nikia's needed breakup, Imani and Jack's career improvements. Numerous approaches to conflict (Thomas, 1974) were used over the course of their stories, and most found collaborative solutions in mediation.

Social Disorder theory was supported in the neighborhood conflicts of interviewees, including the impacts of neighborhoods that were declining, dangerous (Tanya), and cramped (Jasmine). In addition, in the quantitative findings, the most "private" conflict types, those between intimate partners, had more recidivism than more public family, neighborhood or workplace disputes, indicating potentially a better fit between community-based mediation and more community-facing conflicts where neighborhood collective efficacy is at play. For some contributors that identified as victims of their conflict (Caleb, Jerrica), mediation was a mechanism of informal social control, since they wanted to use the process to underline the seriousness of the harm that had been done, and hold them accountable, while showing mercy with regard to invoking formal state punishment against them. A collective efficacy theory of change, where neighborhood ties can be protective against violence (Bellair, 1997; Ohmer, 2016;

Sampson, 2006), was also supported by Ruby's and Tanya's stories, who were saved from harm by other neighbors when attacked by longtime neighbors in increasingly dangerous neighborhoods. In Tanya's case they now still hang out at each other's homes, following a positive mediation.

The mutually-reinforcing escalation of the conflicts described in interviews supports understanding mediated conflicts through the lens of symbolic interaction theory, where personal career goals (Aisha), toxic workplaces (Lil Bitz, Shirley, Trina, Al and Imani), dangerous neighborhoods (Tanya), individual mental health challenges (Imani and Lil Bitz) factored in the conflict, gaining meaning as each person reflected it back to the other in dialogue. In the quantitative and qualitative findings, conflicts escalated in the context of very long relationships. Early intervention was critical to Regina, Imani, and Lil Bitz, who said violence would have escalated without mediation, and for Keisha & Tanya who thought mediation had kept them from being attacked again.

These results can then be interpreted in light of the five common theoretical critiques of criminal misdemeanor mediation described in Chapter 2: that offenders will re-offend due to not having been punished in favor of ADR; that it will be misapplied to intimate partner violence; that mediations will be coerced if diverted from criminal court; that mediation domesticates violence; and that it widens the net for over-production of criminal misdemeanor cases.

### ***Re-offending Due to Lack of Punishment in ADR***

A key fear and critique about application of mediation to criminal cases, particularly criminal violence, has been that without punishment within the retributive

justice system offenders would re-offend (see for example, Brown, 1994). This critique is not supported by the quantitative dataset in which few participants (10-11%) returned to court, or the qualitative data, where none described any further court case or violence.

### ***Misapplication to Intimate Partner Violence***

This critique was supported by the quantitative data, with intimate partners comprising seven of the eight mediation participants who recidivated, several of whom had returned to establish domestic violence protective orders. As described above, there are numerous practice implications for this theoretical critique, and this may be an area for growth in community mediation centers around the US. Further research in this area is warranted, and theory-building and public debate about community mediation's applicability to divorcing and especially non-divorcing couples with varying degrees of violence between them is needed.

### ***Coercive Criminal Court Diversion***

The quantitative data does not speak to the issue of whether criminal court-referred mediation is by definition coercive (see Brown, 1994; Hanan, 2016; Hedeem, 2005), having not asked any questions related to the topic. The qualitative interviews support this critique, since three participants believed themselves to have been court ordered to mediation by a judge, and several others felt some pressure from the prosecutor. Future theory-building, program-planning, and research in the area of community mediation should keep this critique in mind, and build on ways to reduce its effects.



### *Domestication of Violence*

In an important critique of victim-offender mediation, Cobb (1997) wrote that the process can “domesticate” or “erase” violence, by offering a neutral, nonjudgmental service after a violent crime has been committed. Mediation, according to this critique, withholds moral judgment about the violence, but imposes a morality of its own: that coming to a peaceful resolution with the offender is required of the victim. This critical theory was not supported in most interviews, since contributors often described being supported to talk through and gain needed clarity about the violent incident itself. In one case, Regina did not appreciate the fact that the fight itself was never discussed in mediation. No contributors mentioned moral pressure to forgive the one who assaulted them by the mediators. The domestication of violence critique was made most clearly about victim-offender mediation (Cobb, 1997), a different model than studied here, based more squarely in restorative justice principles, and may be less applicable to community mediation in which resolution and healing are possible but not expected (see Hanan, 2016).

### *Criminal Justice System Misdemeanor Net-widening*

Two arguments of the net-widening and net-strengthening critique (Austin & Krisberg, 1981) were present in the data, and support for this critique is unclear. First, a key criticism and indicator of diversion net-strengthening is that many of the cases would simply have been dropped if the diversion path did not exist, so they are in the system longer if they go through diversion (Austin & Krisberg, 1981, Natapoff, 2018). This is speculation on the part of the participants, but at least one case was dropped despite having returned to court with no completed mediation or mediated agreement. It is likely,

but not clear, that those cases had a longer path due to the mediation referral. With respect to net-widening, the idea that more people bring criminal court cases into the system because they know mediation and other diversion plans are an option (Austin & Krisberg, 1981, Natapoff, 2018) is impossible to judge from the data. However, the low severity situations charged as assault (spitting, poking in the forehead) could be an indicator of this phenomenon. In those cases, police came to the scene, did not make an arrest, and then invited participants to open cases against each other at the court commissioner's office. Community mediation theory-building could further unpack this important critique and look at it more specifically. For example, the critique about keeping a case in the system longer may not be as applicable to mediation as to a six-month drug treatment requirement in drug court diversion. Center management practice should continue to bear this critique in mind, in terms of what conflict stage to invest resources in, and with whom to forge partnerships, whether criminal court diversion, with court commissioner referrals, or at the point of primary prevention. Further research could directly explore the extent to which this critique is true for these community mediation cases.

### **Implications and Recommendations for Policy**

Regarding the potential policy implications of this study, the data supports that prosecutors, public defenders, and judges can confidently divert appropriate assault cases to mediation with no more fear of recidivism or further violence than if the case were prosecuted, consistent with similar studies of criminal court-referred mediation (Davis, 2009; Jonas-van Dijk, et al., 2020; Maryland Judiciary, 2016).

Given the types of assaults represented in these interviews (including, for example, Nikia's spitting match and Keisha's forehead poke), and given the tendency of the U.S. criminal justice system to over-criminalize minor offenses (Kohler-Hausmann, 2018; Natapoff, 2018), and to concentrate that criminalization in communities of color (Alexander, 2010), implications may include consideration of diverting cases earlier in the process. Many of these criminal charges were self-filed through a court commissioner's office. In partnership with local prosecutors' offices, community dispute resolution programs could launch, strengthen, or expand referral partnerships in which appropriate cases are diverted from there, or at entry to the prosecutor's office through a review unit (see BCSAO, 2016), rather than later by prosecutors or judges. Referral partnerships with police departments are also critical, as in many of these cases police arrived on the scene, decided not to pursue an arrest, and left combatants with the option of filing charges against each other at the court commissioner's office. A police referral to mediation at this stage may have been effective at preventing participants from filing charges. Practitioners' recommendations in review sessions included expanding training to police officers, especially system-wide in-service trainings. Amid urgent calls from community advocates nationwide for changes in American policing, (ranging from calls for retraining and reform to defunding and abolition), strengthening community-based solutions to conflict and lower-severity crime is a critical social justice effort.

In addition, both the quantitative and qualitative findings support investment in use of conflict resolution services before they enter the criminal justice system, either as primary or secondary violence prevention. Since the 1970s this has been a major thrust of the community mediation movement (Wahrhaftig, 2005), via mediation centers doing

community outreach and establishing referral partnerships with groups and institutions that people turn to in conflict (from hospitals to houses of worship, to neighborhood associations, schools, and police). In reviewing these results, practitioners recommended expanding community outreach for non-criminal-justice referrals. Sustained public support to incentivize community mediation centers' outreach and partnership development is needed, and funding sources such as local and state human services contracts, Community Development Block Grants, state judiciary filing fee funds, and police or sheriff's department funds should all be considered. As jurisdictions continue to evaluate how to allocate criminal justice resources, use of Justice Reinvestment Act (JRA) funds and other decarceration funding mechanisms at federal, state, and local levels around the country can be used to launch, improve, and sustain criminal misdemeanor diversion referrals to community mediation (see Rosenthal, 2016 for a Maryland example of applying JRA funds in this way.)

These stories also support returning one of the basic tenets of the alternative dispute resolution movement, to emphasize the importance of only referring cases to mediation when it is voluntary for both victim and offender (AAA, ABA & ACR, 2005; Fisher, Patton & Ury, 2011). Several mediation participants interviewed believed their cases had been ordered to mediation by a judge, and that they had no choice in whether to use it. Of course, some people, in the intimidating setting of a court room, may perceive a voluntary referral as a court order. However, it's worth noting again that when one contributor (a human services professional) argued strenuously not to go to mediation with her attackers, she was made to do so, and her life was threatened in mediation. This

highlights the heightened importance of avoiding coercion in criminal cases, where safety may be an issue.

Finally, given the significant scheduling challenges addressed by mediation participants, it may be worthwhile for prosecutors' offices to consider expanding partnerships with community mediation centers to include both pre-trial and day of trial mediation, as is more commonly offered in civil small claims cases, for example in Maryland District Court (Maryland Judiciary Court Operations, 2015a), with good results in general (Wissler, 2004).

### **Implications and Recommendations for Future Research**

Combining literature review findings with the findings and limitations of this study, the following research challenges and gaps are worth briefly exploring, to inform future research on similar questions.

#### **Selection Bias and Comparison Group Design**

With the continuing threat of selection bias when studying voluntary services, it may be possible to consider randomized control trials, and at a minimum, quasi-experimental designs with matched or weighted groups should be used (see Flower, 2014; Wilson & Chernak, 2010). The use of un-served service adopters as a comparison group is a unique opportunity specific to multi-party services, (that is, people who chose to use mediation but did not receive it due to scheduling issues or their opponent's refusal) and that design protects against selection bias to some degree as well (see Flower, 2014; Gilligan & Lee, 2005; Jonas-van Dijk, et al., 2020).

## **Statistical Power**

In order to control for appropriate confounding variables, large sample sizes are needed, which is a challenge when the service itself is underutilized. Collaboration across schools and court systems could help, as could consideration of continuous dependent variables (see below) allowing for OLS regression with more attainable power requirements than generalized linear models (Dattalo, 2008).

## **Confounding Variables**

Future studies of conflict resolution and restorative justice interventions' ability association with further violence should consider controlling for theory-driven and empirically-derived confounding variables such as individual characteristics like race, income, gender, past records, identity of mediator(s), and case characteristics like charges, police involvement, cross-charges, and more, in order to isolate the impact of the intervention itself.

## **Self-reported Violence**

Crime statistics have been privileged over self-reported violence as dependent variable in studies of conflict resolution interventions, despite long knowledge that self-report of violence shows higher violence levels than criminal offending records do (Inciardi & Chambers, 1972, Nurco, 1998). For example, Wiesner, Capaldi, and Kim (2007) found that among youth, prevalence of offending was 12.7% using court records, and 61.3% using self-report. The Revised Conflict Tactics Scale Short Form (CTS2S) and its short form are promising measures for studying the impact of community mediation on self-reported violence (Straus, 1973; Straus et al., 1996; Straus & Douglas, 2004). This group of measures is grounded in conflict theory, as discussed in Chapter 3,

in which conflict is conceptualized as a neutral force that may be used toward positive (change, growth) or negative (violence, separation) ends in society and in relationships. The questions are a checklist of a range of conflict tactics, including discussion and compromise, as well as hitting, punching, shoving and slapping. Usually applied to intimate partner violence, the Conflict Tactics Scales ask the same questions about violence victimization and perpetration to each respondent, a quality that has been critiqued by intimate partner violence scholars (Dobash & Dobash, 1979; Pan, Neidig, & O’Leary, 1994; Ratner, 1998). Because the Conflict Tactics Scales are unique among measures of violence, in that they make no assumption about whether the respondent is a victim or perpetrator, it is ideal to apply to non-intimates with some ongoing relationship, who are experiencing an interpersonal conflict. The measure has been adapted many times, including to study the effects of witnessing IPV only (Graham-Bermann, et al., 2009; Hungerford, Ogle & Clements, 2010; Kennedy, Bybee & Greeson, 2014); to measure violence between children and their parents (Straus et al., 1997); and with an all-female incarcerated population (Jones, et al., 2002). Adaptations could include using “the other participant” rather than “your partner.” Mutuality of violence questions could be changed from male/female to victim/offender. Analysis of CTS2 or CTS2-S survey data factor structure in a non-intimate sample also has the potential to be a useful addition to the literature on violence measurement.

Examination of self-reported violence in this way would also have the important benefit of quantifying the experience of both victimization and offending, rather than just zeroing in on the dependent variable of recidivism, or further offending. Ignoring the experience of victimization in favor of tracking offending metrics is a longtime critique

of criminal justice research (Doerner & Lab, 2015), and this oversight should not be continued by social work scholars.

### **Combining “What Works” and “How it Works” Studies**

Finally, an ideal exploration of mediation’s capacity to reduce violence would combine an examination of outcomes with data on what happened in the actual mediation session, to determine what aspects of the intervention are more likely to bring about change, and at what dosage and in what level of fidelity. This could be accomplished by behavior-coding mediators and participants in mediation sessions, and tying outcomes like self-reported violence rates to the actual skills mediators use, and the interactions between the participants (See Charkoudian, Walter & Eisenberg, 2017, Charkoudian, Eisenberg & Walter, 2018; Maryland Judiciary Court Operations, 2015a; Maryland Judiciary Court Operations, 2015b). Qualitative interviews or focus groups with mediators would be an important element of examining the details of how mediation works in practice, from mediators’ own perspectives. In addition, qualitative case observations could pair with behavior-coding (in person or by video) to make a fuller account.

### **Conclusion**

Violence continues to grip communities and families. Some recent crime reduction efforts have come with an unacceptable cost: expanding criminalization of human life, especially in communities of color. Solutions that reduce both violence and over-criminalization are urgently needed.

Community-based mediation for misdemeanor assault had a statistically non-significant association with return to court at six months, versus usual court processes.



Had assaults between couples been excluded, recidivism for mediation cases would have been one third of those treated as usual. Mediation participants interviewed described complex and layered escalation to violence, a strong desire to escape or retract criminal charges they had filed, numerous strengths and weaknesses in the mediation process, and no further violence, assault, or court charges between any participants.

Mediators, community mediation centers, and local prosecutor's offices could improve screening for intimate partner violence, and work together to divert more mediatable cases earlier in the process via community self-referrals, police officers, and court commissioners. Future studies of mediation recidivism should consider an unserved service adopter comparison group, and mediation evaluations with a dependent variable of self-reported violence would be best suited to understanding community mediation's founding mission of community-created peace.

Appendix A: Attitudes Toward Conflict

The Attitudes Toward Conflict scale is excerpted from the original Maryland Judiciary study's pre-mediation/court survey

20. Using the following scale, express your agreement or disagreement with the following statements:

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
I think there are a number of different ways to resolve the issues that led to these charges.					
It's important that I get my needs met in the issues that led to these charges.					
It's important that I understand what the other person/people want in the issues that led to these charges.					
The other person/people need to learn that they are wrong in the issues that led to these charges.					
It's important that the other person/people get their needs met in the issues that led to these charges.					
It's important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.					
I feel like I have no control over what happens in the issues that led to these charges.					
The other person/people involved in the issues that led to these charges want the exact opposite of what I want.					
I can talk about my concerns to the person/people involved in the issues led to these charges.					
It doesn't seem to make any difference what I do in regard to the issues that led to these charges, it'll just remain the same.					
In general, conflict is a negative thing.					

## Community Mediation Interviews

### Semi-structured interview guide

#### Welcome

#### Oral Consent:

- ✓ *We are researchers at the University of Maryland Baltimore to study the effects of community mediation. We are interested in hearing from you because your court case was referred to mediation.*
- ✓ *Your responses NOT be shared with the courts, the center, or the mediators*
- ✓ *It's completely your choice whether to participate (including whether to end the survey or skip questions)*
- ✓ *Your decision to participate or not to participate in this project will have no effect on your experience or treatment in court, or at the mediation center.*
- ✓ *If you have questions about the research you can contact Dr. Charlotte Bright at [cbright@ssw.umaryland.edu](mailto:cbright@ssw.umaryland.edu) or the HPRO at 410-706-5037.*
- ✓ *There are no expected benefits to participating in the research study. The risk of loss of confidentiality has been minimized by password and firewall protected databases. The risk of emotional discomfort can be minimized by taking a break, skipping a question, or I can help you find community services for emotional support.*
- ✓ *You will receive a \$25 gift card.*
- ✓ *Do you want to participate?*

#### Introduction

<b>Main Question</b>	<b>Possible prompts if needed</b>
1. What was the mediation service like?	What was useful? What was not useful? What did the other participant think of it? How were the mediators helpful or not helpful?
2. What was your conflict like in the months before the mediation?	What was it about? What made it worse? What did either of you do to try to make it better? How long had it been going on?

3. What was your conflict like in the months after the mediation?	What changed? Did it improve? Stay the same? Get worse?
4. Can you describe violence between you in the months before the mediation?	What happened? How often? How did that affect you or your family?
5. Can you describe violence between you in the months after the mediation?	What happened? Did it improve? Stay the same? Get worse?
6. Did the mediation affect whether violence happened afterward? How?	How did the mediation change things? If not, what could have helped?
7. How did you decide whether to try mediation?	What factors did you use to decide? Were other people involved in the decision? What were their thoughts?
<b>New questions, prompts and variations that evolved/ were added through the process</b>	
8. Tell me about whether violence <i>could</i> have happened afterward?	
9. Why do you think there was/wasn't violence afterward?	
10. What do you think would have happened in court if you had not used mediation?	
11. Would it have been just as good to go to court or was it better to use mediation?	
12. Would you recommend mediation to a close friend who had a court case like yours? Why?	

Appendix C: Interview Notes Form

<b>Community Mediation Interview Notes</b>	
Participant ID#	
Interviewer	
Date	Location
Time begun	Time ended
Notes on participant's demeanor & mood	
Notes on nonverbal communication	
Notes on interviewer strengths and areas for growth	
Notes on location	

Notes on key learnings for further exploration
Mediation service
Conflict before
Conflict after
Violence before
Violence after
Effect of mediation on the conflict

*Note: Adapted from Gioia, 2015*

## Appendix D: Member-checking and Expert Review Summary

Summary of findings used in emails to interviewees for member checking and for the presentation to mediators for expert review.



### Comparing the impact of community-based mediation vs. prosecution on assault recidivism among adults

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CAROLINE HARMON-DARROW

## OVERVIEW OF METHODS

QUESTION	SAMPLE	PROCEDURE	ANALYSIS
RQ1: Among misdemeanor assault cases in district court, does community-based mediation prevent return to court between participants after six months, versus the usual process (prosecution, stet, nolle prosequi)?	n = 69 parties to assault II cases using mediation	Secondary data analysis of a study involving: 1. Brief phone survey of participants following mediation or trial 2. 3mos follow up phone survey 3. Review of court case disposition at 6mos	Logistic regression analysis using Inverse Proportion of Treatment Weighting
RQ2: Which case-level characteristics (if any) are associated with a reduction in violence following community-based mediation?	n = 93 parties to assault II cases whose cases were treated as usual		
RQ3: How do mediation participants perceive the impact of the experience of mediation on their inclination to use violence?	19 mediation participants	Semi-structured interviews	Thematic analysis using open coding

RQ1: Does community-based mediation prevent return to court between participants after six months, versus the usual process (prosecution, stet, nolle pros)

LOGISTIC REGRESSION OF CRIMINAL AND CIVIL RETURN TO COURT AT SIX MONTHS ON CASE TREATMENT, CONTROLLING FOR LENGTH OF RELATIONSHIP, PARTICIPANTS' ATTITUDES AND COUPLEHOOD

n = 162	B	S.E.	Wald	df	p	Exp(B)
Received mediation	.842	.669	1.585	1	.208	2.320
Length of conflict	-.005	.007	.584	1	.445	.995
Hopeless win-lose attitude	.249	.115	4.710	1	.030	1.283
Ever a couple	1.259	.615	4.187	1	.041	3.520
Constant	-7.801	2.510	9.657	1	.002	.000



RQ2: Which case-level characteristics (if any) are associated with a reduction in violence following community-based mediation?

LOGISTIC REGRESSION OF CRIMINAL AND CIVIL RETURN TO COURT AT SIX MONTHS ON CASE TREATMENT, CONTROLLING FOR LENGTH OF RELATIONSHIP, PARTICIPANTS' ATTITUDES AND COUPLEHOOD

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Ever a couple	1.259	.615	4.187	1	.041	3.520
Constant	-7.801	2.510	9.657	1	.002	.000

RQ4: What case characteristics and charges define misdemeanor assault cases where mediation was received but there was further violence, or further civil or criminal court cases?

ASSAULT II CASES THAT RECEIVED MEDIATION AND RETURNED TO COURT

Case	Survey pre-mediation				Court records review 12mos post-mediation		
	Were they ever a couple?	How many times were police called?*	How long ago were police first called?*	Agreement?	Civil court	Criminal court	Family court
1	x	5	12	x	Protective Order DV	Other	Filed for Custody
2	x	1	1	x	Protective Order DV	Violation of Ex Parte	Filed for Divorce
3	x	2	2	x	Protective Order DV	Second Degree Assault	
4	x	2	6		Paternity Suit	Second Degree Assault	
5	0	12.25	30	x	Peace Order, other tort, other equitable relief		
6	x	1	0		Replevin		
7	x	1.75	0	x	Protective Order DV	Violation of Ex Parte & Arson/Threat	Filed for Custody
8	x	3	2.5	x	Protective Order DV		

*RQ3: How do mediation participants perceive the impact of the experience of mediation on their inclination to use violence?*

IT IS THE PERSON WHO LIVES IN THE HOUSE  
WHO KNOWS WHERE THE ROOF LEAKS.  
- AFRICAN PROVERB

- ❑ HOUR-LONG PHONE INTERVIEWS
- ❑ 19 PAST MEDIATION PARTICIPANTS [TWO PAIRS]
- ❑ 4 JURISDICTIONS

SUMMARY OF  
INTERVIEW  
CONTRIBUTORS

Pseudo nym	Relationship	Conflict	Who referred	Police called?	Agreemt	Court Outcome	Physical Violence before?	Physical Violence after?
Keisha	Coworkers & mother of boyfriend	Communication 3rd party gossip in workplace	PD	Yes	Yes	Charges dropped	Yes (jabbed in the face with finger)	No
Jasmine	Neighbors	Parking	ASA	Yes	No	Other participant lost, 1y probation	No (property destruction and false assault charge)	No
Erika	Current wife & Ex-wife	Communication Sex, romantic jealousy	PD	No	No	Charges dropped	No (false assault charge)	No
Jack	Business partners	Division of work and finances	ASA	Yes	Yes	Other participant lost, 3y probation & restraining order	No (intimidation with a weapon)	No
Nikia	Current girlfriend & Ex-girlfriend	Communication Sex, romantic jealousy	Learned from Center	Yes	No	Charges dropped (against their wishes)	No (spitting)	No
Trina Al	Coworkers	Personal financial loan, work duties	Judge ASA & PD	No	Yes	Charges dropped	No (intimidation with weapon)	No
Ruby	Neighbors	Dog	Judge & ASA	Yes	No	Other participant lost, 30d jail	Yes (beaten up, went to ER)	No

SUMMARY OF INTERVIEW CONTRIBUTORS

Pseudo nym	Relationship	Conflict	Who referred	Police called?	Agreemt	Court Outcome	Physical Violence before?	Physical Violence after?
Darnell	Divorcing Spouses	Communication, broken laptop	ASA?	No	No	Charges dropped	No	No
Sophia	Manager & Employee	Work hours and termination	ASA?	Yes	Yes	Charges dropped	Yes (fist fight)	No
Caleb	Strangers	Road rage	ASA	No	Yes	Charges dropped	No (intimidation with a weapon)	No
Regina	Ex-wife & Current partner	Communication, Co-parenting	Judge & ASA	No	Yes	Charges dropped	Yes (threw objects)	No
Tanya	Neighbors	Communication	ASA	Yes	Yes	Charges dropped*	No (intimidation with a weapon)	No
Destiny	Acquaintances, Classmates	Communication, Romantic/sexual jealousy	ASA	Yes	Yes	Charges dropped*	Yes (fist fight)	No
Tiffany	Acquaintances, friend triangle?	Communication	ASA	Yes	No	Other participant lost, Restraining order	No (harassment with violent threats)	No
Lil Bitz	Co-workers & friends	Communication	ASA	Yes	Yes	Charges Dropped	Yes (punched)	No
Shirley							No (falsely accused)	
Andrew	Ex-spouses	Finances, custody	ASA	Yes	Yes	Charges Dropped	Yes (fist fight)	No
Gigi	Son's fiancée	Communication	ASA	Yes	Yes	Charges Dropped	Yes (fist fight)	No

- 1. Escalation and violence** began with positive ties; involved confusion, internal and external pressures, threats, and above all, third-party instigators; and ended with shame.
- 2. The justice system** was its own character in each of the dramas, capable of worsening the danger and damage, and in mutual cases, respondents wanted to cut ties with it.
- 3. Mediation** could only resolve the conflict if offered: safety; fairness; free expression; clarity about the incident or responsibility; solutions; and active, neutral mediators.
- 4. Outcomes** included an end to violence in all cases, and little interaction, and for some: loss of housing and livelihood, emotional closure, or endings that needed to happen.

## INTERVIEW THEMES

## ESCALATION AND VIOLENCE

KEY IDEAS	QUOTES
<b>Violent Physical Contact</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Aisha: "I ended up fighting her. She approached me on a bar. I threw my drink on her, we fought."</li> <li><input type="checkbox"/> Lil Bitz was punched at work: "I have a earring in my nose. And she took and hit me in my nose. And a week later, I coughed up something, which was the back of the earring."</li> <li><input type="checkbox"/> Ruby was attacked by multiple young neighbors, saying "all three of them leaped on me and tried to push me over the railing... It was this lady who basically been in the area for 30 something years... She paid someone. ...the young lady showed me money. And then, she all of a sudden came towards me."</li> </ul>
<b>Assault by Threat or Intimidation</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Jack's estranged business partner swung a board up over his head but missed.</li> <li><input type="checkbox"/> "A screaming match and a spitting match" took place between Nikia and her boyfriend's secret second girlfriend.</li> <li><input type="checkbox"/> Tanya's neighbor and friend "started acting like she was crazy, like she wanted to fight me. They locked her up for pulling out a knife on me"</li> </ul>
<b>False charges</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Shirley did not take responsibility for Lil Bitz's nose ring: "I didn't do anything to her... I cussed. I didn't put my hands on her."</li> <li><input type="checkbox"/> Al felt Trina "lied and said I pulled out a police taser. Where would I get a police taser from? Come on."</li> </ul>

## ESCALATION AND VIOLENCE

KEY IDEAS	QUOTES
<b>Participants' relationship to each other</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Tanya knew her neighbor "probably twelve or fourteen years"</li> <li><input type="checkbox"/> Keisha's conflict was with her ex-boyfriend's mom: "We all worked at the same place, but I looked at her as... Like a motherly figure to me, too. I believe she used to hang out with my grandmother."</li> </ul>
<b>Confusion and being misunderstood</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Keisha said "it was just confusion. I didn't know what was going on. She came to me that morning and said I said X, Y, Z nasty things about her. I was telling her, "No, I didn't." What did I say? I didn't say nothing about you."</li> <li><input type="checkbox"/> Caleb had been on a year-long odyssey to track down and hold accountable an off-duty Baltimore cop who threatened him with a gun, (including becoming party to a class action civil rights case against the city demanding transparency), only to find out he was a private security guard.</li> </ul>
<b>Internal and external pressures that escalated the conflict</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Lil Bitz: "I suffer from PTSD because I got burned on my last job. So my emotions were high. I think because of me being on medication and stuff, I don't know if I took my medicine that day...for anxiety and depression."</li> <li><input type="checkbox"/> Imani: "It was a high Medicaid office. So the policy or the strategy was fill the schedule. So on average, if they wanted the office to see 50 patients, we would have to book at least a hundred patients because a lot of Medicaid patients don't show up for their appointment. But on any given day, all hundred patients can show up and of course it would be a hectic workday and the team itself was overworked and overwhelmed....This office breeds violence."</li> </ul>

## ESCALATION AND VIOLENCE

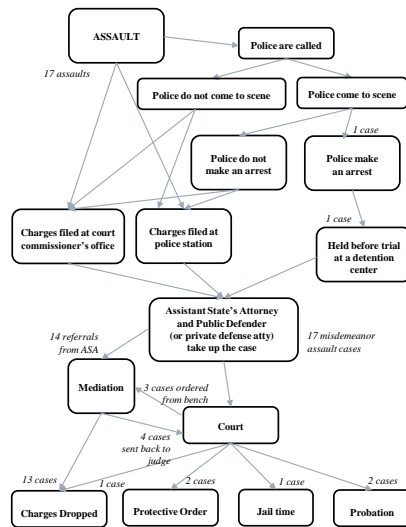
KEY IDEAS	QUOTES
<b>Insults, threats, and intimidation and verbal assault</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Jerrica: He told me he would piss on the property. She was threatening my daughter [7yo] and my niece [10yo]. She called me, but I don't know how she got my phone number. ...she was going to break into my house, and hit my daughter and my niece and me. I got tired of it.</li> <li><input type="checkbox"/> Gigi's conflict escalated quickly when her son's fiancée "told me I wouldn't see my grandson anymore."</li> </ul>
<b>Outside instigators or three-way communication</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Regina, Erika &amp; Nikia: Three types of love triangles (mother/stepmother, stepmother/mother, two girlfriends) where the man did not come to mediation or court.</li> <li><input type="checkbox"/> Keisha: "A third party was spreading rumors, making up things. She believed the third party more than she believed me. What the girl had said to her, I guess it made her really mad ... Like, "No, I didn't say that. I don't even know what you're talking about...That wasn't our conversation at all."</li> </ul>
<b>Shame and regret about violence</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Gigi: "I'm too old for this honey. I'm 51 years old, I don't need to be over there fighting. That's the embarrassing thing. I work in the public. Anybody that comes in contact with me, they tell you that, "Oh my God, you're the nicest person." Then all I could think about was, "Oh my God. I'm in trouble for fighting." I'm 51 years old. That was old school stuff."</li> </ul>

## JUSTICE SYSTEM

KEY IDEAS	QUOTES
<b>Police as protectors and participants</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Many said a version of Nikia's story: Nikia said "Once the spitting started ... We both called the police...We weren't charged though. ...The police gave us both the option of going downtown and pressing charges on the other. So we did."</li> <li><input type="checkbox"/> Aisha: We fought in the club. ... the police came and broke it up. They maced me all in my face and I ended up going to the hospital.</li> <li><input type="checkbox"/> Caleb: There was a road rage incident where ... He stepped out of his car, had a gun holstered on his waistband. He proceeded to yell and curse at me a lot while approaching me with his hand on a gun.</li> </ul>
<b>Challenges of Court</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Keisha: "She has cancer and she would go to treatment every Wednesday. I'm a single mom and I have two, three jobs. So I can't take off from this job or I'm liable to be fired."</li> <li><input type="checkbox"/> Jack &amp; Regina feared lies might win in court: "you know how the courts is. Whoever get there and file charges first are the ones they believe."</li> </ul>
<b>Voluntariness</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Most felt it was voluntary, with encouragement from an ASA.</li> <li><input type="checkbox"/> Tanya, Regina, and Ruby believed their case to have been ordered to mediation, with no voluntary choice involved. "The courts did it," Tanya said, "I didn't do nothing. I think the lawyers or whatever, they set it up."</li> </ul>

# JUSTICE SYSTEM

KEY IDEAS	QUOTES
<b>Protecting myself from punishment or criminal charges</b>	<ul style="list-style-type: none"> <li>Trina: "Someone said something about mediation and I just did it. I did it because he took paperwork out on me. I don't have any charges. I don't want any charges. I didn't know what was going to happen. By him being the best friend of the owner and I said, "Okay. We'll do mediation," just so I wouldn't get a record for what he did. People lie. You don't know what's going to happen in court. You see it every day. He was like, "Oh, I ain't scared of the police. I've been to jail before. I'll go back." Like who does that? Who's happy to go back to jail? I don't want to go to jail."</li> <li>Imani: "So the biggest impact was that I was faced with criminal charges ... I felt very nervous and anxious because I have of course a lot to lose. I've acquired a lot. I'm a mom. I'm a wife and I'm actively involved in all of my children's lives. That they would find me guilty for an assault charge because I have history of assault on my record and I'm trying to ... I have to get a pardon by the governor if that's going to be off my record."</li> </ul>
<b>Showing mercy to the other person</b>	<ul style="list-style-type: none"> <li>Al: "Me and my wife discussed it over. That's when she said, just go ahead to mediation, because my wife, she don't feel good about females in prison because she had worked in one at one time. And really, it was like sending a friend to prison, so I couldn't do that, so I just went on to mediation."</li> <li>Caleb: "I just am a big proponent of finding solutions that don't involve incarceration. I don't think our justice system is really set up to rehabilitate people or offer anything meaningful, I think it's a punishment-based system that is meant to satisfy the other person's demands for justice or for vengeance even. I believe very strongly in the concept of giving people a certain chance, and forgiving sins, and loving my neighbor."</li> </ul>



## JUSTICE SYSTEM: CASE PATHS

## MEDIATION

CODE	QUOTES
<b>Safety</b>	<ul style="list-style-type: none"> <li>❑ Jack: "very calming and very easy to work over things." Lil Bitz: "I like that instead of us doing it on our own and having problems, that it was outside parties that brought us together ...and it was safe."</li> <li>❑ Erika's mediation "didn't last long because the other participant was very, I guess you want to say violent. Well not violent as in physically but verbally, screaming, cursing to the point where [the rec center] asked us all to leave."</li> <li>❑ Miss Ruby left her mediation in terror, saying her neighbors: "proceeded to act a fool, pull their pants down, show bad body parts ... I had to go. I was not going to just allow the nonsense. I came there to eliminate the problem, to get an apology. ...They still wanted to physically harm me ... That's when I was threatened that she was going to jump on me."</li> </ul>
<b>Clarifying the conflict or incident</b>	<ul style="list-style-type: none"> <li>❑ Imani: "I actually got to tell her in mediation, ...that it was not me who actually initiated her being terminated and... she started crying because she felt like all of that could have been avoided"</li> <li>❑ Caleb: "I think it gave him kind of a wake up call, if you will, and allowed him to reflect on his behaviors. I wanted to find a way to communicate to this other person that they had wronged another human being"</li> <li>❑ Regina: "Honestly, I thought we was going to discuss the incident on what happened? You know in mediation we never discussed the incident on why we was in mediation, and that is the crazy part of the mediation."</li> </ul>
<b>Expressing ourselves</b>	<ul style="list-style-type: none"> <li>❑ Trina: "to be able to talk...It was good...that people can talk and get stuff out in the open....He just let us talk."</li> <li>❑ Gigi: "The main thing is that they ask each and every one of us to tell how we feel....it really helped though. I told them how I really feel.... Getting us to communicate again, getting us to look at each other again. Because it was at that point you couldn't even look at each other. Yeah. It's a good thing."</li> </ul>

## MEDIATION

KEY IDEAS	QUOTES
<b>Solutions were not the focus</b>	<ul style="list-style-type: none"> <li>❑ People who brainstormed solutions appreciated it. Lil Bitz: ""basically we were trying to find ways to resolve different types of conflicts on the job. What you would do, what you wouldn't do or what you should have done. Basically you stay in your area and that person stay in their area."</li> <li>❑ People who did not brainstorm solutions were disappointed. Aisha: "It's not solution-based if you're just going to sit here and argue, ...you're not really resolving it. You're just giving us ultimatum. We can sit here and argue, or we can sign off on people and drop the charges. But that doesn't mean that the issue is resolved....So how you want things to be different in the future?"</li> </ul>
<b>Active mediators</b>	<ul style="list-style-type: none"> <li>❑ Trina: "It was terrible. The mediators, they just sat there... Why were they there? I could have met him on the street and dealt with it then and there. They didn't protect me as far as being verbally abused and mentally abused. I walked out of there in tears. What is the point of mediation? They did nothing but sit there and listen."</li> </ul>
<b>Neutrality</b>	<ul style="list-style-type: none"> <li>❑ Imani: "They kind of remained neutral. I don't think they were bias, to say the least. ... They're not taking sides but they could see both party's points of view"</li> <li>❑ Gigi: "pointed out everybody, ... it was never like pointing a finger at one specific person. They listen first of all, to every person's point. ...they went through everybody's view of each thing... Not taking sides."</li> </ul>
<b>"These are not mediation people"</b>	<ul style="list-style-type: none"> <li>❑ Ruby said her neighbors were "not mediation people" and asserted "[mediation is] very helpful if it's being utilized by the correct type of people...Meaning people that aren't so angry about life, and hateful about life, or scarred.... the process of mediation can lead to a good outcome if you have the right type of people, more positivity, growth, willing to really resolve the issue within their heart."</li> </ul>

## OUTCOMES

KEY IDEAS	QUOTES
<b>Violence after mediation</b>	<ul style="list-style-type: none"> <li>❑ No one reported any violence post-mediation. Keisha: "No. No problems. No, because we both know where each other live at. So no one's popped out at my house. I didn't pop at her house. Yeah. There hasn't been any problems." Gigi: "No. No, no, no. No, no," Andrew: "None at all, no." Shirley: "No. Our families know each other. We lived across the street from each other. I never had any problem with her, never, never ever."</li> <li>❑ Keisha attributed the lack of violence to mediation: "I wouldn't say it would be blood spilled, but ...she stated, "If I see you, I'm going to get you." She probably would have got me. I didn't want that to happen. I guess [mediation] resolved a lot for her because for me, I wasn't a person who ... I wasn't trying to battle on. I guess she figured, "Okay. We came to resolve issue. We don't need to have any ongoing problems."</li> </ul>
<b>Possibility of violence without mediation</b>	<ul style="list-style-type: none"> <li>❑ Lil Bitz: "Probably so, because when I told my oldest daughter about it and my oldest daughter knows she's a bully and that her daughter is a bully, my oldest daughter would've got involved and I didn't want that to happen. That's why I chose mediation."</li> <li>❑ Imani: "this definitely wasn't the mom's first rodeo. She was already on probation at the time that the charges were drawn up and the court wound up actually taking a warrant out for her arrest ... So the mom definitely has a history of violence and I think violence would definitely persist with her."</li> </ul>
<b>Interacting after mediation</b>	<ul style="list-style-type: none"> <li>❑ There was little contact after mediation for most. Imani: "Once we went to court, that was the end of it. We never heard or seen each other again," Jack: "no contact whatsoever"</li> <li>❑ Shirley: "I mean I've seen her. She speak, I speak and that's it. She'll throw her hand up; I throw mine up, ... she goes in her building and I go and do what I've got to do. It's not I'm in fear for my life and she's in fear of her life. No, that was over with ...at the mediation."</li> </ul>

## OUTCOMES

KEY IDEAS	QUOTES
<b>Court outcome</b>	<ul style="list-style-type: none"> <li>❑ In the two most one-sided stories, both walk-outs, Jasmine's and Ruby's neighbors received jail time and probation.</li> <li>❑ Most were extremely happy to have court case &amp; charges gone from their lives</li> </ul>
<b>Work or housing outcome</b>	<ul style="list-style-type: none"> <li>❑ Imani left her company due to feeling unsafe and ended up in a less toxic workplace</li> <li>❑ Jack lost his housing and was briefly homeless</li> <li>❑ Trina has been out of work for two years after her failed mediation</li> </ul>
<b>Endings and closure</b>	<ul style="list-style-type: none"> <li>❑ Gigi: I used to talk to my son every single day. But it might be once a week, it might be once every two weeks. Only because [my son's fiancée] feels like ...he talking more to his mom than her... It almost even gave me the ability to step back. And at 30, I guess he does need not to have to go to your mom for everything.</li> <li>❑ Jack was glad his business had dissolved, and is doing better</li> <li>❑ Nikia and the secret second girlfriend both dumped the mutual boyfriend and were grateful to have learned the truth in mediation</li> <li>❑ Regina's kids' stepmom &amp; Andrew's ex both got worse before getting better, after the formal closure of divorce</li> <li>❑ Shirley: "I felt we left it there."</li> </ul>



## IMPLICATIONS FOR MEDIATORS

- Offer the entire process to people who just want to drop the charges
- Facilitate free expression without communication guidelines
- Stay active and vocal with inclusive listening and open ended questions during heated moments, do not shut down
- Facilitate clarity about the incident itself, in addition to the underlying conflict, including a mix of questions
- After a walk-out, escort each participant out separately

## IMPLICATIONS FOR PROGRAM MANAGERS & TRAINERS

### INTAKE

- Explicitly clarify at intake that the entire process will be offered to people, rather than an opportunity to just drop the charges
- Screen thoroughly for domestic violence in cases where couples have assault charges & refer out to other services
- Consider screening out child victims of violent crime

### TRAINING

- Train mediators to evaluate fear of retaliation in cases where couples have assault charges\*
- Consider conflict coaching training for mediators to employ after walk-outs

### PARTNERSHIP DEVELOPMENT

- Communicate with judges and ASAs continually about keeping mediation voluntary
- Outreach to OSA and court commissioners to receive more diversion upstream, before charges are entered
- Consider locations with security guards or police, including Day of Trial mediation for criminal cases

*\*Toby Guerin's advice*

CRITIQUE	Quantitative Findings	Qualitative Findings
Offenders will re-offend after a slap on the wrist	<b>Not supported:</b> similarly low 10-11% recidivism rate for both mediated and prosecuted cases	<b>Not supported:</b> no recidivism for mediated cases
Misapplication to intimate partner violence will endanger survivors	<b>Supported:</b> 7 of 8 recidivists were couples and several had DV charges	<b>Mixed:</b> couples had no further violence, but the conflict was not resolved
It is coercive by definition	<b>Unclear:</b> High agreement rate (87%) could indicate coercion	<b>Mixed:</b> Most participants felt empowered by the ability to request dropping charges, but three perceived themselves to have been court ordered
It domesticates violence	<b>Unclear</b>	
It widens the net of the criminal justice system	<b>Unclear</b>	<b>Supported:</b> Cases involved spitting, poking a forehead, police had declined to pursue most cases

**IMPLICATIONS FOR THEORY:  
COMMON CRITIQUES OF MEDIATING CRIME**

**IMPLICATIONS  
FOR  
POLICY**

- ❑ ASAs, PDs and Judges can confidently divert appropriate assault cases to mediation without fear of recidivism or further violence
- ❑ Participation in diversion must be voluntary for both victim and offender
- ❑ Consider engaging community mediation centers to offer day of trial mediation for misdemeanors, including assaults
- ❑ OSAs could consider partnering with both community mediation centers and court commissioners' offices to divert cases farther upstream

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