AN ABSTRACT OF THE THESIS OF


Abstract Approved: Gregg B. Walker

This descriptive research project is a survey and analysis of nineteen community mediation programs in the State of Oregon. These programs were evaluated to determine their responsiveness to issues of culture and ethnicity. Data was gathered by face-to-face and telephone interviews with community program staff members and administrators. Information was written on cards or tape recorded for analysis. General questions were asked about kinds of services, target groups, and minority use of services provided. Other questions related to information about training, mediator selection, intake, and the mediation process.

A review of selected authors, such as Hall, Hofstede and others, forms a background for cultural issues related to mediation. Cultural factors included in this study highlight the characteristics and variables of cultural and conflict. The literature review includes current thinking regarding the nature, merit and challenges of community mediation programs and a description of mediation in the State of Oregon.

The findings of the research indicate that most community mediation programs in Oregon do not service minority communities. The need for adequate funding, personnel, time, and solutions to serve diverse populations within their neighborhoods produces a constant tension affecting the extent to which programs are responsive to diversity issues.
Outreach to develop community awareness and recruit volunteers varies significantly. Very little outreach is specific to minority communities. Most advertising is in English. Training programs differ from location to location, but aspects related to culture are minimal. The intake process for each program varies only slightly. Usually procedures and techniques remain consistent regardless of the cultural or ethnic backgrounds of disputants. With the exception of language considerations, the mediation process also remains the same for all cases. Recommendations are included to strengthen the development of programs to be more responsive and open to the cultural needs of minorities.
Community Mediation and Culture: A Study of Oregon Programs

by

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Janet E. Harrison, Author
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As a chapter in my life comes to a close, I would like to express my deepest gratitude to the following people. Their contributions to my work and my life have made this possible.

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My friends and family, there are too many of you to name or to count, but you know who you are. Your prayers have finally been answered. Now you can stop asking when I'm going to finish.

Billy Boy, your loyalty is an example to us all.
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DEDICATION

**wa·hoo** (wā’ hōō) *interj. Chiefly Western U. S.* Used to express exuberance. [Expressive formation.]

To God be all the glory.
As a child growing up in Taiwan, I had many opportunities to observe conflict from a non-Western perspective. I learned quickly the importance of dealing with conflict in an indirect manner. It was not until I returned to the United States for college that I began to distinguish some of the differences between the more direct Western approach to conflict our family practiced at home and the non-Western approach I had learned and observed in other contexts, particularly in Taiwan.

These cultural differences became evident to me during my internship at the Asian Pacific American Dispute Resolution Center in Los Angeles, CA where I attempted to mediate cross-cultural disputes. Coming from Corvallis, Oregon to Los Angeles, I expected a radically different mediation experience from what I had learned in the classroom and a 32-hour mediation training. I was not disappointed. Working through language barriers was challenging but manageable. Cultural barriers, on the other hand, were often hard to recognize and strategies for mediating under those circumstances were even less apparent. This exposure, in one of the most culturally diverse cities in the United States, provided me with an impetus for studying how community mediation programs in Oregon respond to cross-cultural conflict and other cultural factors.

I anticipated that mediation in Los Angeles would be different from Western Oregon, given the dissimilar demographic make-up of these areas, but I did not expect to experience it so dramatically. During the course of my stay in Los Angeles, violent ethnic
conflicts erupted between Korean American business owners and African American community members. This violence communicated an important message to communities across the nation about what can occur when conflicts escalate and are not managed properly. It became very clear that conflicts within communities are very real and very serious. They have the ability to cause irreparable damage. Of particular concern to me was the issue of cultural diversity and its role in community conflicts.

Diversity, or the presence of differences among people, is often touted as a valuable asset to communities—and rightly so. It represents a growing recognition of the need to accept and value the differences between people. However, it is also an aspect of community that requires proper attention. Diversity can be a community strength or it can be a source of division. Differences in age, gender, religion, education, culture, ethnicity, and socioeconomic status impact social interaction. These differences can enhance relationships or in some circumstances, like the Los Angeles riots, when unresolved or mishandled may result in violence. As communities become more diverse, the potential for conflict increases. It is not the differences themselves that cause conflict, but the misperceptions and miscommunication between people about these differences that make conflict more likely to occur. This is especially true when people from diverse backgrounds and cultures attempt to live and work together, despite their disparate values, beliefs, worldviews and customs. Honoring and embracing diversity is an important first step for building peaceful communities, but it is not enough. Promoting peaceful coexistence within communities requires a proactive approach. Communities must be responsive to issues of diversity by providing appropriate mechanisms for diffusing and managing conflict efficiently and effectively.
In the United States, frustration over an overloaded and expensive legal system has prompted a growing interest in alternative methods of dispute resolution. Mediation, in particular, has become an increasingly popular alternative. Although practiced around the world for centuries, mediation in the United States is relatively new (Moore, 1996). In 1926, the American Arbitration Association began offering mediation and arbitration. This was for those members of the public who preferred the private, voluntary nature of mediation, as opposed to the more public and compulsory aspects of litigation. Prior to the 1920's, mediation in the United States was primarily used within religious colonies (Leeson & Johnston, 1988). The most recent growth in mediation has occurred within the last 25 years, expanding to include a range of services from community, commercial, family, environmental, and public policy disputes (Moore, 1996; Wall & Lynn, 1993; Lewicki, Litterer, Minton, & Saunders, 1994).

Why Community Mediation?

Several factors have contributed to the growth of community mediation in the United States. In addition to the need for alternatives to the legal system, one of the underlying factors has been the desire for communities to develop better ways to address conflicts, especially opportunities that enable individuals and groups to resolve conflict themselves. One of the distinguishing characteristics of mediation is the consensual process. In this process the disputants must be “willing to allow a third party to enter the dispute and assist them in reaching a solution” (Moore, 1996, p. 15). Although there may be some degree of encouragement or incentive persuading individuals to enter into mediation, they themselves must determine how the conflict will or will not be resolved. Individuals take
responsibility for both the problem and the solution. This is in contrast to the legal system or arbitration, because mediators never impose solutions. "Authority or recognition of the right to influence the outcome of a dispute, is granted by the parties themselves rather than by an external law, contract, or agency" (Moore, 1996, p. 18).

Community mediation programs have the potential to provide an invaluable service to the community in several other ways. As individuals work through their conflict with the help of a mediator, they often learn important skills. Mediators are also able to teach and model good communication, creative problem-solving, interpersonal and conflict management skills. These skills give individuals confidence in their ability to resolve their own problems and empower them to be proactive in resolving other conflicts. The acquisition of these skills helps to emphasize the value of mediation.

Community mediation programs also externalize the values on which America was founded—democracy and civic involvement. As Cleland (1996) explains,

Community mediation programs across the United States have their roots in a long and rich tradition of democratic self-governance. When members of a society build mutually beneficial relationships, develop problem-solving skills, and collaborate on their shared social responsibilities, they give life and meaning to the principles on which our nation was founded... in community mediation programs, both the volunteers who learn and practice conflict resolution skills and the disputants who agree to be guided by these techniques embody "the democratic self" (p. 1).

Educating individuals and helping them get involved in democratic self-governance builds a capacity to resolve conflicts in a less threatening and more productive manner for individuals, organizations, and communities. Community mediation provides an outlet for community involvement, contributing to society as a whole and promoting the democratic values that are so highly prized.
Community mediation is also a valuable service in that it is accessible, expedient, and flexible. To ensure that everyone has equal access to mediation, most community mediation programs offer services based on a sliding scale relative to income or free to those who cannot afford it. No one is turned away because of an inability to pay and conversely, having money does not afford any special privileges. Everyone receives the same service. Conflicts referred to mediation can also be addressed more quickly, before they are able to escalate out of control. Minor disagreements and misunderstandings need not become lawsuits or turn violent. Lastly, community mediation programs have the ability to be flexible. Unlike the legal system, mediation is adaptable to various types of conflicts, individuals, and circumstances surrounding each case. The time, location, strategies, and mediators for each case are determined separately on a case-by-case basis.

This flexibility and personalized assistance can be particularly amenable to individuals from diverse ethnic groups. Community mediation has the ability to tailor its services to accommodate diversity. Mediators are able to find out about special needs or cultural considerations and work with the parties to find a suitable arrangement to resolve the problem. Mediators can also adapt their techniques and strategies. For example, if one of the parties is from a culture with a preference for dealing with conflict indirectly, mediators can rely primarily on caucusing. This technique of speaking to the parties separately rather than together can alleviate unnecessary tension caused by cultural differences.

The flexibility inherent in mediation, the potential to empower individuals in their efforts to resolve conflicts, and the availability of services that are accessible and expedient, are the reasons why community mediation has the potential to play a unique role in building and maintaining peaceful communities. Community mediation is significant because of its inherent flexibility and its potential to empower individuals in their efforts to resolve
conflicts. Another good reason for community mediation is the availability of its services that are accessible and expedient. As communities become more diverse, this role will become even more significant.

**Purpose of Study**

The purpose of this study is to examine the extent to which community mediation programs in Oregon currently address the issues of culture and ethnicity. Examining programs across Oregon, both individually and collectively provides a comprehensive view of mediation efforts and challenges concerning ethnic and cultural diversity. Oregon was chosen for the following reasons: (1) accessibility, (2) programs in communities with varying degrees of cultural and ethnic diversity, (3) a growing interest in minority groups represented within community mediation, and (4) the presence of a statewide dispute resolution umbrella organization.

**Preview of Subsequent Chapters**

This study of community mediation programs in Oregon will unfold in four subsequent chapters. Chapter Two reviews the current literature in the field of culture, conflict and alternative dispute resolution. Chapter Three provides a description of methodology, including the selection of participants, the interview protocol, and the framework for interpreting results. Chapter Four employs that framework to present the interview results. Lastly, Chapter Five features the overall findings and conclusions of the study.
CHAPTER 2
LITERATURE REVIEW

Understanding community mediation programs and their responsiveness to issues of culture and ethnic minorities begins with a look at several important factors. At the center of any mediation is conflict. Examining the components of conflict is a critical starting point. "If conflicts in multiethnic communities are to be handled effectively, third parties must, at a minimum, become knowledgeable about different conflict values and forums, so they can respond flexibly and competently when persons different from themselves request assistance" (LeResche, 1992, p. 338).

In addition to examining the current academic literature on conflict, this chapter also looks at culture. As one of the key concepts of this study, culture is discussed as a construct by itself and in relationship to conflict. This chapter also reviews the nature of community mediation in light of programmatic issues, ideological assumptions, models, trends, criticisms, and specific Oregon issues.

Conflict

Family, upbringing, culture, personality, and personal experience are some of the many factors that influence our thoughts and feelings about conflict. Despite what we feel or think about conflict, we can be certain of one thing—it is an inevitable part of human existence. For many, conflict by definition is negative (Walker & Daniels, 1996). Compared to other cultures, individuals from Western-style cultures "tend to view conflict as a healthy catharsis for anxiety as well as a positive mechanism for invigorating moribund relationships" (Donohue & Bresnahan, 1994, pp. 141-142). Some Western conflict scholars
believe conflict in and of itself is neither destructive nor constructive (Tjosvold, 1984; Deutsch, 1973). Conflict becomes positive or negative depending on how it is handled (Tjosvold, 1984). Folger, Poole, and Stutman (1993) believe that understanding, how conflicts move in destructive or productive directions is the key to working through conflict.

Forms of conflict, levels of conflict, causes of conflict, elements of conflict, stages of conflict, conflict styles, and means of resolving conflict are some of the many ways to study conflict. A starting point is to examine the definition of conflict. Combining Hocker and Wilmot's definition from 1985 and 1998 (Hocker & Wilmot, 1985; Wilmot & Hocker, 1998), conflict is the interaction of interdependent parties who perceive incompatible goals and interference from each other in achieving those goals. Folger et al. (1993) point out that, "the most important feature of conflict is that it is based in interaction. Conflicts are formed and sustained by the behaviors of the parties involved and their reactions to one another" (p. 4). In other words, "conflict does not occur in a vacuum" (Walker, 1996, p. 21). It occurs between people.

Conflict is not only based in interaction, but it also occurs between interdependent people. There must be some degree of interdependence for conflict to take place, whether real or perceived. This interdependence may be real or it may be only perceived, or it may be extensive or minimal. The underlying assumption, then, is that interdependence provides incentive to cooperate, collaborate, or compete (Folger et al., 1993, Wilmot & Hocker, 1998; Walker, 1991).

Individuals or groups must also perceive incompatible goals or interference from the other party. Whether goals are truly incompatible is not always self-evident, but the parties must believe it to be so. The parties must perceive interference in reaching their goals.
There are many different types of goals. Goals may involve content, process, identity (facework), relationship or some combination of these elements (Wilmot & Hocker, 1998). Content goals represent issues that are objective and verifiable (Wilmot & Hocker, 1998). Process goals that arise from differences in the way parties believe the interaction should be ordered and directed. Identity or facework goals refer to the positive image parties desire to portray. Finally, relationship goals concern the parties' affect on and treatment of each other. Goals are not always recognized or acknowledged by the parties. Sometimes parties do not realize how complex their goals actually are. Learning to identify both the stated and unstated goals is one step towards effective conflict management.

Related to goals are conflict styles, employed by individuals when faced with conflict situations. Conflict styles are a person's "consistent, specific orientation toward the conflict" (Folger et al., 1993, p. 182) or "behavioral orientations" toward conflict (Thomas, 1975, pp. 889-935). Calling conflict styles an "orientation" toward conflict acknowledges that individuals have the capacity to change and adapt to a given situation. These styles are not fixed.

The notion of "conflict styles" was originally presented by Blake and Mouton (1964), Hall (1969), and Kilmann and Thomas (1977). Their collective work identified five conflict styles: competitive, accommodative, avoiding, collaborative, and compromising. Each of these styles also correlates to two other components of conflict behavior, assertiveness and cooperativeness (Folger et al., 1993). Assertiveness refers to "behaviors intended to satisfy one's own concerns" and cooperativeness refers to "behaviors intended to satisfy the other individual's concerns" (Folger et al., p. 40). Figure 2.1 shows the conflict styles in relation to each other and how they correspond to the degree of assertiveness and cooperativeness.
FIGURE 2.1: Five Conflict-Management Styles and Their Relationship

(Folger et al., 1993, p. 41)

A competitive style is the most assertive and the least cooperative style of all, placing great emphasis on achieving an individual's own concerns and objectives. An accommodative style is just the opposite, striving to appease and smooth over conflict for the sake of the relationship. An avoiding style, on the other hand, seeks to elude conflict by withdrawing and refusing to respond to the conflict at all. A collaborative conflict style is both cooperative and assertive, aggressively trying to reach an agreement that is suitable to all parties involved. This style has also been called an integrative or problem-solving approach to conflict (Lewicki & Litterer, 1985). Compromising appears in the middle of all the other options in terms of assertiveness and cooperativeness. The compromising style gives up part of what is wanted in exchange for something else. Both parties expect to lose some and gain some.

Individuals in conflict may find each other’s conflict styles as frustrating as the issues themselves. Conflict styles can become a source of conflict and can also lead to misunderstanding. Words and actions (or lack thereof) that indicate a particular conflict
style may be wrongly attributed to unfriendliness, evasiveness, cowardliness, aggressiveness, intimidation, disrespect, or insensitivity. Although some individuals, groups, or cultures might consider certain styles preferable and more effective, Folger et al. (1993) argue that no style is inherently wrong or bad. Certain conflict styles may simply be more appropriate in given situations. Inflexibility or unwillingness to adapt, on the other hand, is a more critical factor influencing effective conflict management. Learning to recognize and separate conflict styles from substantive, relational, identity, or process issues is especially important in cross-cultural conflict. Minority ethnic groups, for example, may be more inclined to use and value particular styles and approaches to conflict that are in contrast to the conflict styles valued by the dominant culture.

Very relevant to culture and conflict is the notion of face. Face is a critical component for understanding human interaction because people are always negotiating and maintaining face (Ting-Toomey, 1988). Lim (1994) argues that the concept of face is universal. Face is defined as, “the public self-image that every member of society wants to claim for himself/herself” (Brown & Levinson, 1978, p. 66). It is a metaphor for the way we want others to see us and treat us. Face and facework involve “the enactment of face strategies, verbal and nonverbal moves, self-presentation acts, and impression management interaction” (Ting-Toomey, 1994, p. 1).

Although it is common to think of face from the perspective of “saving your own face”, individuals in some cultures are more concerned about saving the face of the other person (Ting-Toomey, 1988). Brown and Levinson (1978) describe two kinds of face that reflect this different orientation to face. Positive face is the need for inclusion and the “claim for respect, approval, and appreciation” (Griffin, 1997, p. 423). Negative face, on the other hand, is the desire for autonomy or “the claim for basic rights of space, privacy, and
noninterference” (Griffin, 1997, p. 423). Individuals from low-context cultures like the United States, tend to focus on positive face or what Ting-Toomey (1988) calls autonomy. Individuals from high-context cultures like Japan, on the other hand, tend to focus on negative face or inclusion (1988). Individuals from low-context cultures are more inclined toward self-face concerns, while individuals from high-context cultures are more inclined toward other-face concerns. An explanation of high and low context cultures will be given later in the chapter.

Stemming from these two contrasting face needs are four strategies for achieving face needs. Brown (1977) describes these four dimensions of face used in negotiating public self-image as face-maintenance, face-saving, face-restoration, and face-giving. Face-maintenance is “the desire to project an image of capability, confidence, strength, or conversely to avoid projecting an image of incapability, weakness, or foolishness” (p. 276). Face-saving “refers to anticipatory and preventative tactics in order to avoid loss of face” (p. 278). Face-restoration encompasses tactics to restore or repair loss of face. Face-giving involves intentional acts of supporting another person’s public image and identity. The relationship between positive and negative face and the four face dimensions are shown in Figure 2.2 below adapted from Ting-Toomey (1988) and Griffin (1997).
FIGURE 2.2: Two-dimensional Grid of Facework Maintenance

(adapted from Ting-Toomey, 1988 and Griffin, 1997)

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<th>Positive-face Need (inclusion)</th>
<th>Collectivistic High-Context Culture</th>
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<td>Face-Maintenance</td>
<td>Face-Giving</td>
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| Self-face Concern              | Other-face Concern                |
| Face-Restoration               | Face-Saving                       |

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<th>Individualistic Low-Context Culture</th>
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Negative-face Need (autonomy)

The issue of face as it relates to culture is discussed more fully later in the chapter.

Culture and Conflict

Culture and conflict have been studied extensively as separate constructs, but very little research has studied the conceptual interplay between them (Ting-Toomey, 1985). Nevertheless, a number of scholars agree that culture and conflict are inseparable. Speicher (1995) argues that “culture supplies cognitive, emotional, and behavioral constraints on all interactions” (p. 197). Conflict, therefore, as a particular social interaction is cultural because it stems from a system of meaning (Merry, 1987).

More specifically, Nadler et al. (1985), assert that culture impacts how conflict is conceived, conducted, and resolved. On a conceptual level, culture affects how and when people perceive a conflict. Culture also affects how people communicate, verbally or nonverbally, to manage differences. Rules and norms govern what is culturally appropriate
communication behavior under these particular circumstances. Lastly, culture affects how options are created for resolving differences. Culture influences what constitutes the available means for resolving conflict (Merry, 1987). Eastern and Western styles of conflict, for example, differ in "the way they organize and present information, demonstrate a willingness and ability to provide explanations for discrepant behavior, show solidarity and friendship, demonstrate a willingness to deliver reprimands, and demonstrate propriety and deference toward one another" (Donohue & Bresnahan; 1994, p. 142).

**Culture**

Culture is a complex concept that "can be viewed from many perspectives, each of which provides one partial but important glance at the nature of things cultural" (Philipsen, 1987, p. 249). Nadler, Nadler, and Broome (1985) define culture as "the system of socially created and learned standards for perceiving and acting, shared by members of an identity group" (p. 89). "System" signifies a degree of structure and conformity, tied together and inter-related. Hymes (1962) refers to culture as an "organization of diversity." Culture is not uniform or tidy; because between and within cultures there is much diversity.

"Socially created and learned" suggests that people have the power to change and shape culture. It is not genetically transmitted, but is a by-product of social interaction. Parents, family, school, and media play fundamental roles in the transmission of culture.

"Standards for perceiving and acting" encompass both behavior and cognition. Philipsen (1992) describes these standards as a system of "symbols, meanings, premises, and rules" (pp. 7-8), which place more of an emphasis on the cognitive, thought-processes that affect behavior.
Geert Hofstede further emphasizes this point by using the metaphor "mental software" or "mental program" (1980) to describe the way culture affects how we think, feel, perceive the world, and behave.

Anthropologist Edward T. Hall (1977), one of the foremost scholars of culture, posits that "people cannot act or interact in any meaningful way except through the medium of culture" (p. 177). Culture permeates every aspect of our lives, whether we realize it or not. Often, one of the best ways to begin to see and understand your own culture is to leave it. Some manifestations of culture are easily recognizable, but most of what culture is and how it affects us is so deeply imbedded in our lives, we are completely unaware of it until confronted by another culture.

The last element of the culture definition, "identity groups," is an important dimension of culture. Every person has an identity or perception of who they are and what significant elements make up their person. Whether it is an identity we have given ourselves or whether someone has labeled us in a particular way, we all have an identity. We associate ourselves and others with a group to help us differentiate ourselves from one another. It is a way to make sense of and give order to our world. Although we often associate cultural identity with national boundaries, culture is not limited geographically or linguistically. “Members of an identity group” (Nadler et al., 1985), encompass all types of groupings. Work, ethnicity, organization, age, and gender are among the many sources of identity. Identity encompasses any combination of individual or group identity components (Dana, 1998). These different and multiple identities are in part what account for the diversity within cultures.
Ethnicity

Two terms often used in conjunction with culture are ethnicity and race. Ethnicity and race are words closely related to culture but with important distinctions. Ethnicity refers to the ethnic group with which a person identifies himself or herself (Collier, 1991). Race is the biological grouping to which a person belongs. These may or may not be the same. For example, a person may be of Chinese ancestry, raised in the United States but consider his or her ethnicity to be Asian American, Chinese American, or Chinese.

Ethnic groups are racially and linguistically distinct cultural groups (Hoopes, 1979) that share a common set of traditions not shared by others with whom they are in contact. These traditions include folk religious beliefs and practices, language, a sense of historical continuity, and a common ancestry or place of origin (DeVos, 1982).

Dominant Culture

For many years, dominant or mainstream America has been understood to mean Euro-American or Anglo-American. The average American has been white, middle class and urban. With changing demographics, the meaning of “to be American” is also changing. However, as with all changes this is occurring gradually. Folb (1991) argues that dominant culture is more about power than it is about numbers. Anglo-American is the dominant culture, not because it is necessarily the majority numerically, but because it maintains the power. Minorities, while growing in number, are still minority groups because they lack power, according to Folb (1991). They still have relatively little influence politically and socially. Subcultures exist within every dominant culture.
These subcultures share some of the values of the dominant culture, but they also hold some values that differ from the dominant culture (Folb, 1991). For the purpose of this study, the term culture will refer to ethnic subcultures and/or ethnic minorities within a given community in the United States.

**Cultural Variables**

Gudykunst (1994) maintains that understanding cultures requires a way to talk about the differences and similarities between them. One way is to look at cultural variables.

Edward T. Hall’s low and high context framework (1977) provides an important dimension of cultural variability. Hall (1977) asserts that a message is incomplete without looking at the context. All transactions can be characterized on a high to low context continuum.

Meaning in a high-context (HC) message is in the context, via the physical environment or internalized in the person. Very little is in the coded, explicit transmission part of the message. A low-context message is just the opposite. Most of the message’s meaning is in its explicit words and code. Hall (1977, p. 91) explains high and low context people in the following manner:

High-context people pay special attention to the concrete world around them. Everything in the physical setting communicates something subtle but significant: the atmosphere of the room, sounds, smells, expressions on people’s faces, and body language. High context people tend to remember people’s names and details and events. The subtle cues in a real-life setting intuitively but intentionally communicate important information. Low-context people, on the other hand, pay special attention to words, ideas and concepts. They may remember a conversation about an important topic but not remember the names of the people in the conversation. The specific explicit words and ideas communicate more clearly than the implicit tone of voice. Low context learners enjoy analyzing and comparing ideas.
When applied to cultures, low and high-context cultures refer to cultural communication of cultures that value a particular orientation. High and low context variability involves differences in a number of areas. Bennett (1990) has summarized Hall’s conception of culture according to context in the following table.

**TABLE 2.1: Summary of Hall’s Concept of High and Low Context Cultures**

(Bennett, 1990 adapted from Hall, 1977)

<table>
<thead>
<tr>
<th></th>
<th><strong>High Context</strong></th>
<th><strong>Low Context</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Time</strong></td>
<td><em>Polychronic</em>&lt;br&gt;Loose schedules, flux, multiple simultaneous activities.&lt;br&gt;Last minute changes of important plans.&lt;br&gt;Time is less tangible.</td>
<td><em>Monochronic</em>&lt;br&gt;Tight schedules, one event at a time, linear.&lt;br&gt;Importance of being on time.&lt;br&gt;Time is more tangible (e.g., is spent, wasted, is “money”).</td>
</tr>
<tr>
<td><strong>Space and Tempo</strong></td>
<td><em>High-Sync</em>&lt;br&gt;Synchrony, moving in harmony with others and with nature, is consciously valued.&lt;br&gt;Social rhythm has meaning.</td>
<td><em>Low-Sync</em>&lt;br&gt;Synchrony is less noticeable.&lt;br&gt;Social rhythm is underdeveloped.</td>
</tr>
<tr>
<td><strong>Reasoning</strong></td>
<td><em>Comprehensive Logic</em>&lt;br&gt;Knowledge is gained through intuition, spiral logic, and contemplation.&lt;br&gt;Importance of feelings.</td>
<td><em>Linear Logic</em>&lt;br&gt;Knowledge is gained through analytical reasoning (e.g., the Socratic method).&lt;br&gt;Importance of words.</td>
</tr>
<tr>
<td><strong>Verbal Messages</strong></td>
<td><em>Restricted Codes</em>&lt;br&gt;“Shorthand speech,” reliance on nonverbal and contextual cues. Overall emotional quality more important than meaning of particular words.&lt;br&gt;Economical, fast, efficient communication that is satisfying; slow to change; fosters interpersonal cohesiveness and provides for human need for social stability.&lt;br&gt;Stress on social integration and harmony; being polite.</td>
<td><em>Elaborate Codes</em>&lt;br&gt;Verbal amplification through extended talk or writing.&lt;br&gt;Little reliance on nonverbal or contextual cues.&lt;br&gt;Doesn’t foster cohesiveness but can change rapidly.&lt;br&gt;Provides for human need to adapt and change.&lt;br&gt;Stress on argument and persuasion; being direct.</td>
</tr>
<tr>
<td><strong>Social Roles</strong></td>
<td><em>Tight Social Structure</em>&lt;br&gt;Individual’s behavior is predictable; conformity to role expectations.</td>
<td><em>Loose Social Structure</em>&lt;br&gt;Behavior is unpredictable; role behavior expectations are less clear.</td>
</tr>
</tbody>
</table>
### TABLE 2.1, Continued

<table>
<thead>
<tr>
<th>Interpersonal Relations</th>
<th>Group is Paramount</th>
<th>Individual is Paramount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clear status distinctions (e.g., age, rank, position), strong distinctions between insiders and outsiders.</td>
<td>Status is more subtle, distinctions between insiders and outsiders less important.</td>
<td></td>
</tr>
<tr>
<td>Human interactions are emotionally based, person oriented.</td>
<td>Human interactions are functionally based, approach is specialized.</td>
<td></td>
</tr>
<tr>
<td>Stronger personal bonds, bending of individual interests for sake of relationships.</td>
<td>Fragile, interpersonal bonds due to geographic mobility.</td>
<td></td>
</tr>
<tr>
<td>Cohesive, highly interrelated human relationships, completed action chains.</td>
<td>Fragmented, short-term human relationships, broken action chains when relationships is not satisfying.</td>
<td></td>
</tr>
<tr>
<td>Members of group are first and foremost.</td>
<td>Individuals are first, groups come second.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Social Organization</th>
<th>Personalized Law and Authority</th>
<th>Procedural Law and Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customary procedures and who one knows are important. Oral agreements are binding.</td>
<td>Procedures, laws and policies are more important than who one knows.</td>
<td></td>
</tr>
<tr>
<td>In face of unresponsive bureaucracies, must be an insider or have a “friend” to make things happen (e.g., going through the “back door”).</td>
<td>Written contracts are binding.</td>
<td></td>
</tr>
<tr>
<td>People in authority are personally and truly responsible for actions of every subordinate.</td>
<td>Policy rules, unresponsive bureaucracy.</td>
<td></td>
</tr>
<tr>
<td>People in authority try to pass the buck.</td>
<td>People in authority try to pass the buck.</td>
<td></td>
</tr>
<tr>
<td>Impersonal legal procedures.</td>
<td>Impersonal legal procedures.</td>
<td></td>
</tr>
</tbody>
</table>

This table shows the extent to which the high and low context orientation affects multiple dimensions of communication, relationships, thought processes, and behavior. An individual's orientation to time, space and tempo, reasoning, verbal messages, social roles, interpersonal relations, and social organization also have a direct bearing on conflict and conflict management.

Cultural factors like high and low context play a pervasive role in human interaction. Understanding these differences is an important tool for mediators in assessing conflict, interacting with disputants, interpreting verbal and nonverbal messages, and for facilitating agreements between parties that consider and acknowledge various orientations, preferences,
and values. For example, mediators may encounter parties whose response to a question seems irrelevant. Although this may be attributable to other issues, there is the potential that what the mediator is observing is the party’s use of spiral reasoning compared to a linear approach. Recognizing this difference can help the mediator and potentially the other parties to accept the difference in approach rather than allow it to cause tension and frustration. Identifying and understanding differences is often the first step in building bridges between people from dissimilar cultures.

As shown in Table 2.2, Ting-Toomey (1985) integrates Hall's (1977) high and low context orientations with conflict to address why, when, what, and how conflict varies.

**TABLE 2.2: Characteristics of Conflict in Low- and High-Context Cultures**

(Ting-Toomey, 1985, p. 82)

<table>
<thead>
<tr>
<th>Key Questions</th>
<th>Low-Context Conflict</th>
<th>High-Context Conflict</th>
</tr>
</thead>
</table>
| **Why**       | -analytical, linear logic  
                   -instrumental-oriented  
                   -dichotomy between conflict & conflict parties | -synthetic, spiral logic  
                   -expressive-oriented  
                   -integration of conflict & conflict parties |
| **When**      | -individualistic-oriented  
                   -low collective normative expectations  
                   -violations of individual expectations create conflict potentials | -group-oriented  
                   -high collective normative expectations  
                   -violations of collective expectations create conflict potential |
| **What**      | -revealment  
                   -direct, confrontational attitude | -concealment  
                   -indirect, nonconfrontational attitude |
| **How**       | -action and solution-oriented  
                   -explicit communication codes  
                   -line-logic style; rational factual rhetoric  
                   -open, direct strategies | -“face” and relationship-oriented  
                   -implicit communication codes  
                   -point-logic style; intuitive  
                   -affective rhetoric  
                   -ambiguous, indirect strategies |
Ting-Toomey (1988) holds that individuals from high-context cultures are more likely to use indirect, nonconfrontational styles of communicating. Whereas individuals from low-context cultures prefer direct confrontational styles that emphasize individualistic values. Ting-Toomey (1985) argues that individuals from low-context cultures are also better able to separate conflict issues from the person involved in the conflict. Individuals from high-context cultures tend to see the conflict issue and the person involved in the conflict as inseparable. While the United States is considered a very low context culture, many minorities in the United States are from high context cultures.

Ting-Toomey (1988) also applies face-negotiation theory to explain contrasting approaches to conflict resolution. As discussed earlier in the chapter, Ting-Toomey (1988) posits that individuals from both high and low context cultures tend to focus on particular types of face maintenance. Use of certain face negotiation approaches also affect conflict management styles. Figure 2.3 combines the five styles of conflict management according to their culture-related face concern.
Griffin (1997) explains this figure in the following way. Individuals who are concerned with the face of others but are not concerned about their own face, tend toward the obliging (accommodating) conflict style. Dominating (competing), which is the opposite extreme, is concerned with face-restoration for self but not for face saving for others. Ting-Toomey (1988) predicts conflict styles for individuals from collectivistic, high-context cultures to be obliging, compromising, and avoiding styles and individuals from individualistic, low-context cultures to tend toward integrating and dominating strategies.

Another important contribution to ways of talking about similarities and differences between cultures is Geert Hofstede’s (1980) four dimensions of cultural variability. The four dimensions help us further understand ways in which cultures differ. Based on surveys from
more than 88,000 employees obtained in 40 countries, Hofstede identified the following
cultural patterns: Individualism-Collectivism, Uncertainty Avoidance, Power Distance, and
Masculinity-Femininity. Cultural dimensions are broad value tendencies. Within every
culture both dimensions can be found, but one tends to dominate (Gudykunst &
Matsumoto, 1996).

**Individualism-Collectivism**

Of all the cultural dimensions, the *individualism-collectivism* dimension has received the
most academic attention (Gudykunst & Matsumoto, 1996, Ting-Toomey & Chung, 1996).
Ting-Toomey and Chung (1996) view collectivism and individualism as another way of
conceptualizing a sense of self. Individualist cultures tend to focus on the individual or the
“I” identity, looking out for self and immediate family rather than the larger group. Greater
emphasis is given to personal goals and individual decision making. Consequently,
competition is preferred over collaboration. The United States is often used as an example
of an individualist culture, ranked the most individualist culture compared to all others.

Collective cultures place a higher emphasis on the “we” identity and emphasize
relationships and obligations to other people. An individual’s goals are often integrated or
sacrificed for the sake of the group, family or organization. Tradition and the group are
both highly respected. Collaboration is preferred over competition. Japan is typically cited
as a very collectivist culture.
**Uncertainty-Avoidance**

*Uncertainty-avoidance* represents the extent to which people are able to deal with ambiguous situations and cope with change. Members of a culture high in the *uncertainty-avoidance* dimension tend to have a low tolerance for uncertainty and ambiguity. Generally speaking, they prefer formal rules and absolutes. Deviance is not well tolerated. As a result, individuals from high *uncertainty-avoidance* cultures tend to resist change, exhibit higher levels of anxiety about the future, and avoid situations where members feel threatened by uncertainty and ambiguous situations.

Members of a culture low in *uncertainty-avoidance*, on the other hand, believe in minimizing rules and regulations governing behavior. Challenging expected behavior and dissenting among group members is valued. Conflict and competition are viewed as a natural and originality is rewarded. As a result, individuals from low *uncertainty-avoidance* cultures tend to be more willing to accept change and take risks.

**Power Distance**

*Power distance* refers to the degree to which status inequality and power imbalance are accepted. It also reflects how a culture believes institutional and organizational power should be distributed. Cultures high on the *power distance* continuum consider hierarchical roles normal and expected. Those cultures low in *power distance* favor equality and encourage those in higher positions to be as much “like one of us” as possible. *Power distance* is particularly noticeable in families and family customs, the relationship between student and teacher, the young and the elderly, and in organizational practices. For example, children raised in high *power distance* cultures are more likely to be taught not to question authority.
Individuals from high power-distance cultures may also be more accepting of autocratic managerial styles. Individuals from low power-distance cultures, on the other hand, may be more likely to challenge the decisions of power holders.

**Masculinity-Femininity**

Finally, the masculinity-femininity dimension reflects whether the preference is for achievement and success or nurture and social support. The term masculinity-femininity dimension has received criticism for being sexist. Terms like task and relationship may be more appropriate.

The higher the culture rates on the task-relationship or masculinity-femininity continuum, the more assertive, ambitious, performance-based it is. These behaviors are often associated with appropriate male behavior. Cultures low on the masculinity-femininity continuum place a higher value on quality of life and social relationships. Qualities like nurture and social support are typically associated with female behavior.

**Culture and Mediation**

The various dynamics of culture affect mediation significantly. Cynthia A. Savage (1996) provides a pertinent discussion on ethnicity in her article, “Culture and Mediation: A Red Herring.” She offers two premises. First, “defining ‘culture’ as being synonymous with one facet of cultural identity such as race, ethnicity, or gender, is a red herring which diverts attention from the search for a more accurate and constructive approach to exploring the impact of cultural diversity on mediation” (p. 271). She feels that using the term “culture” interchangeably with one dimension of culture, like ethnicity or race, leads to a cookbook
approach for dealing with individuals from particular racial or ethnic backgrounds. She makes three important observations of culture. First, culture affects values, beliefs, perceptions, and behaviors, but individual characteristics also affect these differences.

Second, the degree of interculturalness is a continuum and not a dichotomy. Individuals often belong to many subcultures, which affect their identity. Third, conflating “culture” with “ethnicity” is dangerous in that it can obscure the similarities between individuals and can also lead to detrimental stereotyping.

As part of this premise, Savage presents Kluckhohn’s (1975) value orientations to provide a framework for examining diversity issues.

**FIGURE 2.4: Kluckhohn’s Value Orientations**


1. Self: individualism, independence, age, gender, activity
2. Family: relational orientations, authority, positional role behavior, mobility.
3. Society: social reciprocity, group membership, intermediaries, formality, property.
Two major theories stem from Kluckhohn’s value orientations concept. One theory is that these value orientations are not “characterized exclusively by the dominant variation within that orientation” (Savage, 1996, p. 276). Instead, variations in value orientation are present but in rank order. The second theory purports that, “all value orientations are present in any society or culture or society at all times” (Savage, 1996, p. 276). The value of these theories is that they highlight similarities between people and not differences, creating more likelihood for mutual recognition and understanding.

Savage’s second premise is that the goals of mediation differ according to the culture of the participants. To be effective in cross-cultural mediation, Savage argues that the mediator must understand differing goals of the mediation process. She groups these goals into three conceptions: the agreement conception, the individual personal growth conception, and the relationship conception. The agreement conception emphasizes that achieving agreement is mediation’s primary goal. Within this area are the related conceptions of efficiency, protection of rights, and quality of justice. The individual personal growth conception features the ideal of providing opportunities for personal growth, much like the transformative or empowerment approach (Bush & Folger, 1994). The relationship conception focuses on healing and building harmonious relationships, similar to goals in counseling and therapy.

Savage asserts that there is a correlation between value orientations and mediation conceptions. Disputants have both value orientations and mediation conceptions. How parties view the role of the mediator and the structure of the process are affected by both their value orientations and mediation conceptions. Savage recommends that mediators and parties, “develop a consensus regarding the range of acceptable conceptions” (p. 279), rather than try to change conceptions. In order to do so, a mediator must have a wide range of
skills to be able to implement multiple conceptions of the process. In addition to being able
to determine the conceptions of the parties, the mediator should be able to recognize his or
her own preferences or orientations toward mediation.

According to Savage, the identification of value orientations should begin during the
intake process. One possibility is to give a test, but she acknowledges that this can be
problematic for some cultures and for individuals without any knowledge of value
orientations. It is also time consuming and costly. Savage also feels that for mediation to be
successful, disputants should be able to choose the type of mediator who would best suit
their particular orientation to mediation.

The relationship between value orientations and mediation conceptions is an
important one. The issue of diversity is complicated. Strictly focusing on cultural
differences can limited a mediator's ability to assess the situation effectively. There are many
similarities between Kluckhohn's value orientations and Hofstede's cultural variables. Both
provide a way of looking at elements of the underlying framework of values, attitudes,
perceptions, and behaviors shared by various cultures and individuals. This is not an issue of
deciding which approach is better. What is important is the presence of such a framework
for viewing cultural and/or individual differences. The other important angle is to view
various orientations or conceptions of mediation. Savage does not correlate Klockhohn's
value orientations with mediation conceptions, but by considering the two perspectives fully
one gains a much fuller, more comprehensive view of culture and mediation.
Her recommendation to discover the different value orientations and conceptions between parties is very important. However, a formal process during intake that emphasizes these may be as detrimental as the stereotyping she warned against, especially if mediators employ some sort of tool without a proper understanding of the implications and limitations of the information that results.

The other question is whether it is realistic to think that disputants seeking mediation will already know their own conceptions of mediation, let alone what type of mediator would be most suitable for them. Mediation is new to many people. Individuals who are upset and frustrated may not be able to discuss these types of issues initially. Because they have probably never considered these issues, disputants may also lack the language to talk about them. The very discussion of these types of issues might be very uncomfortable for some individuals and would need to be addressed carefully. One alternative might be to spend more time with disputants prior to mediation, getting to know them, developing rapport, and casually discussing issues that might reveal values and expectations.

**What is Community Mediation?**

Although the American Arbitration Association began providing mediation in 1926, the most significant breakthrough for community mediation did not occur until 50 years later. In 1976, U.S. Attorney General Griffin Bell, formerly a judge in the U.S. Court of Appeals for the Fifth Circuit, created the Office for the Improvement in the Administration of Justice in the Department of Justice. This office initiated a national pilot project establishing three “neighborhood justice centers” (NJC) across the country (Primm, 1992). These pilot projects in Kansas City, Atlanta, and Los Angeles gave visibility to the Alternative Dispute Resolution (ADR) movement and became the impetus for community-
based mediation programs nationwide. By 1993 the American Bar Association reported
approximately 400 neighborhood justice centers (Rayburn, 1996).

While connoting program differences, the term ‘neighborhood justice center’ has
essentially become synonymous with terms like ‘community mediation program’. In light of
“informal reforms and their gradual legalization over time,” community mediation avoids
precise definition (Auerbach 1983, cited in Merry, 1989, p. 709). Still, all community
mediation programs share one common goal: to provide an alternative to the legal system.
The “making of community mediation,” according to Harrington and Merry (1988) “is not
simple or obvious, but is a subtle transformation of language, personnel, and procedure” (p.
710). The National Association for Community Mediation’s (NAFCM Internet web site,
1998) mission statement is broad enough to encompass a wide range of views and
philosophies. It states:

Community mediation offers constructive processes for resolving differences and
conflict between individuals, groups, and organizations. It is an alternative to
avoidance, destructive confrontation, prolonged litigation or violence. It gives
people in conflict an opportunity to control the outcome. Community mediation
is designed to preserve individual interests while strengthening relationships and
building connections between people and groups, and to create processes that make
communities work for all of us (1998 Internet web site).

NAFCM has outlined nine elements that characterize community mediation: 1) the
use of trained community volunteers; 2) sponsorship by a private non-profit or public
agency with a governing /advisory board; 3) the use of mediators who represent the diversity
of the community served; 4) the provision of direct access of mediation to the public; 5) the
provision of services to the public regardless of the ability to pay; 6) the promotion of
collaborative community relationships; 7) the encouragement of public awareness; 8)
intervention during the early stages of conflict; and 9) the provision of an alternative to the
judicial system at any stage in the conflict.
Community Mediation Programs

According to the latest figures from the National Association for Community Mediation (NAFCM Internet web site, 1998), there are 550 mediation centers nationwide. While some 76,000 citizens are trained by community mediation programs, the number of active volunteer community mediators is around 19,500. Annual case referrals are approximately 97,000 with some 45,500 cases actually going to mediation. It is important to note, however, that few statistics have been compiled nationwide. Numbers obtained are a result of statistics gathered in particular states or regions.

NAFCM (NAFCM Internet web site, 1998) also reports that the typical community mediation program has 1.5 staff, 30 active mediators, operating on a budget of approximately $40,000 a year. The typical program receives 150 referrals and mediates approximately 70 cases per year. Funding for programs also varies greatly. Some states legislate a significant amount of funding for mediation programs, while others provide very little to no funding. Programs receiving very little governmental support have the challenge of gathering support from a wide range of sources.

Some of the most common community mediation programs and services provided include, but are not limited to, neighborhood disputes, family disputes, school/peer mediation programs, and victim-offender programs. Neighborhood disputes are the primary focus of most community mediation programs. Typical disputes include landlord-tenant problems, noise complaints, threats, harassment issues, and consumer/merchant disputes. Family mediation has become fairly specialized. Most mediation programs handling family disputes require special training, particularly when cases involve divorce and/or child custody issues. Peer mediation has been growing in popularity, as the value of teaching children how to handle conflicts becomes more evident. These programs teach students
how to mediate the problems of their peers, and how to teach communication and problem-solving skills to their peers. Victim offender programs are designed to sensitize offenders to the severity of their crimes and provide them with an opportunity to make restitution to their victims. Victim offender mediation also provides an opportunity for the victims to express their feelings, ask questions only the offender can answer, and to work out agreements that help restore what has been lost. Victim offender programs often rely solely on court referrals and as court connected programs, they often operate under specific guidelines and regulations established by the judicial system.

Community Mediation Ideologies, Assumptions, and Models

In addition to programmatic differences, community mediation programs differ in the ideology and mediation models used. These ideologies and models, whether explicitly articulated or not, have far-reaching implications on the development, organization, and day-to-day operation of community mediation programs. Edward W. Schwerin (1995) provides a valuable discussion of the purpose and place of ideology in mediation. He defines ideology as “the assumptions, values, beliefs, concepts (both factual and normative), and myths that purport to explain and justify what mediation is, why it is important, and how it compares with, and is superior to, the formal legal system” (p. 19).
Schwerin (1995) argues that mediation ideology,

\[\text{services the community mediation movement in many important ways. First, ideology provides a vision and mythology for mediation that mobilizes the resources necessary for its survival and success. As Adler, Lovaas, Milner (1988, 2-3) point out, "Ideologies are broad statements of public purpose that are rooted in socially compelling visions of reality. Such visions are at the core of social movements. They determine the way reality is conceptualized and how problems are defined. Second, ideology legitimates and promotes community mediation to its diverse constituents, such as judges and lawyers, anti-law reformers, business leaders, and grass roots community organizers. Third, it provides a marketing rhetoric by arguing that mediation has substantial advantages over the formal litigation process, including lower costs, greater mutually satisfactory, durable agreements that are voluntarily crafted by the disputants. Fourth, legitimating the support of mediation's adherents, ideology dampens internal and external threats to the community mediation movement (p. 19).} \]

Objectives and ideologies vary across community mediation programs and are often unstated (Singer, 1979). Tomasic (1982) establishes 18 assumptions found in academic literature and policy statements reflecting mediation ideology. They are not shared by all programs nor does he consider them rigid or mutually exclusive. He provides these assumptions to reveal the various underlying views of community mediation programs.

1. Mediation is able to deal with the roots of problems.
2. Mediation improves the communication capabilities of disputants.
3. Mediators are not “strangers” but are “friends” of the disputants.
4. Unlike adjudication, mediation is non-coercive.
5. Mediation is voluntaristic as it allows disputants to solve their problems themselves.
6. Mediation centers provide easier access to the legal system.
7. Disputants want to get away from the courts and into mediation centers.
8. There is such a thing as “community.”
9. Unlike judges, mediators “represent” the community and its values.
10. The use of mediation is a means of reducing tension in the community.
11. Mediators are not professionalized and do not require long periods of training.
12. Mediation centers are non-bureaucratic and are flexible and responsive.
13. Mediation is able to deal with a wide range of disputes.
14. Mediation is speedier than adjudication.
15. Mediation is less costly than adjudication.
16. Mediation is fairer than adjudication.
17. Mediation can reduce court congestion and delay.
18. Mediation is more effective than adjudication in dealing with recidivism.

(Tomasic, 1982, pp. 221-222)
Tomasic (1982) argues that each of these assumptions has been the basis for mediation centers. In "Ideological Productions: The Making of Community Mediation," Christine Harrington and Sally Merry (1988) identify three ideological projects based on local mediation programs in New England. The first model emphasizes the delivery of services. Closely connected with the courts and in partnership with the legal profession and federal government, it is considered a way to expand "access to justice" for the community. Referrals come from the courts and police. The service delivery model is not inherently coercive as long as the parties consent to participate. Backing for the program is primarily from governmental departments and associations like the American Arbitration Association and National Institute for Dispute Resolution. The court is considered inappropriate for interpersonal problems because it is too slow, public, and adversarial. Mediation from a services delivery perspective promises to relieve court congestion.

The second model is a social transformational model based in the community. It envisions changing society through the empowerment of community with the use of community members. This model most clearly articulates the link between community justice and consensual justice. Voluntary participation is essential in building a sense of community empowerment. Uniform standards of mediation practice are generally opposed because they limit citizen participation. Court referrals are refused and funding comes primarily from private foundations, with little help from government. Community empowerment is created through a new sense of community resulting from self-governance. Neighborhood control, decentralized judicial decision-making, and community members substituted for professional dispute resolvers make this empowerment possible. The social transformational model views mediation as a more democratic, nonprofessional way of resolving personal and social conflicts if parties voluntarily agree to participate.
The third model is linked with a social service agency, focusing on personal growth and development. It closely resembles the social transformational model, but with emphasis on the individual rather than the community. The personal growth model believes that voluntary participation enhances the development of an individual’s capacity to take responsibility for the problem and work out a consensual agreement with others. It does not promise mediation that will change the power relations or transform communities, but it only seeks to make people happier where they are. Empowering individuals through a consensual dispute settlement allows the disputants to feel better about themselves because of the following reasons: (1) they are given greater control over their own lives; (2) they enhance personal skills in dealing with conflict; and (3) they learn techniques that can be applied to other situations. In the social service agency model, satisfaction is the measure of success.

Many community mediation programs do not fit a distinct model, but may reflect a combination of mediation assumptions and ideologies. The three models presented by Harrington and Merry (1988) reveal the extent to which community mediation programs differ. They frame the breadth of community mediation as a movement and present the potential conflicts and challenges that it faces. These ideological assumptions have the potential to expose the underlying rationale for various programmatic choices and decisions (e.g. training, outreach, mediator selection, mediation models, use of volunteers, funding). In addition, these assumptions are important considerations for developing culturally sensitive and culturally appropriate mediation programs.
Mediation in Oregon

Mediation in Oregon became formally recognized and enabled in the 1980's with the creation of the Oregon Dispute Resolution Commission (ODRC). The ODRC was established in 1989 as a seven-member commission, appointed by the Governor under statute authority ORS 36.100.210 to administer community and public policy dispute resolution programs in the state. The ODRC's mission is, "to support the beneficial and effective use of conciliation, negotiation, mediation, and other collaborative problem solving processes" (ODRC web site, 1998). Functionally, the ODRC's role is to encourage the development of programs, set minimum qualifications and training standards for mediators in community and court-connected mediation, and to disseminate funding received from civil court filing fees.

Currently, there are twenty-one community dispute resolution centers operating in fourteen Oregon counties. Funding for these programs comes from a variety of sources, but most receive some funding from the ODRC. Each county is required to assess an added surcharge to its court filing fees. The surcharge amount is pooled, collected, and apportioned to the ODRC. The ODRC tracks the money received from each county and notifies the county commissioners of available funding. The ODRC has the responsibility of determining which applicants are eligible for these funds, but the county commissioner decides who will receive the funding. Once recipients have been determined, the ODRC contracts with those entities to ensure that they comply with the guidelines established by the ODRC.

Another function of the ODRC is to provide additional support to existing and developing centers. For example, the ODRC supports and facilitates various aspects of TAG (Technical Assistance Group), a regular meeting of directors from each program to
discuss pertinent issues related to mediation. The ODRC also collects data submitted by various centers and makes the information available as an educational tool.

For unserved counties, the ODRC works together with existing county groups and individuals (e.g. community groups, churches, county commissioners, presiding judges, etc.) to help them learn how to develop a mediation program, to find out how much money is available in their county to do so, and to help them find additional funding sources. An intensive plan is currently underway to establish programs in thirteen more counties.

One of the catalysts influencing dispute resolution programs in Oregon has been the creation of a report called *Justice 2020: The New Oregon Trail*. In March of 1992, a standing committee of the Oregon Judicial Conference, made up of judges and court administrators from every level of the state court system, was charged with conducting a comprehensive, long-range, planning process for the state court system (1995, p. 1). The committee’s mission was to “develop a vision for Oregon’s courts in the year 2000 and to begin planning for the implementation of this vision in the coming years” (1995, p. 1). The predominant reason for this vision was the recognition of changes taking place within society. These changes in society were being reflected in the courts. With “an expanding volume of disputes requiring resolution, increasingly complex cases, and changing public expectations regarding the justice system” (p. 1), the Justice 2020 report was created to plan and prepare for the anticipated changes and challenges forecast to face the court system.

After two years of gathering and analyzing information, the Justice 2020 report identified current strengths of the system, factors influencing the future of the courts, and probable issues to be addressed in the future. Increasing social disintegration, growing racial, ethnic and cultural diversity, increasing volume of litigation, increasing reliance on Alternative Dispute Resolution (ADR), and an increasing legal impact of the elderly all have
the potential to impact the future of community mediation. The increase in the courts' involvement in family related issues, for example, will result in the need to find alternative means to handle these issues outside the court system. The use of ADR was identified as a strength of the current system, but it will need to be adapted and expanded to meet growing needs.

According to state court forecasts, “if case filings in the trial courts continue to expand at the same rate they have over the last decade (1983-92), then the number of cases filed will increase from an estimated 351,000 cases in 1995 to 978,000 in 2020 (excluding district court felony and infraction cases). This represents a rate increase of 178 percent—roughly four times greater than the estimated rate of increase in the state’s population during the same period” (1995, p. 14). Even more significant is the fact that “assuming no change in the rate at which new judges are currently added to the system or in current peer-judge case termination rates, the number of cases pending in the trial courts would literally skyrocket from an estimated seven months average backlog in 1995 to 113 months backlog—or more than nine years in 2020” (1995, p. 14).

As a result of these concerns, the Justice 2020 report proposes a vision to provide a multi-option system. This multi-option system would incorporate the traditional formal legal system with ADR to provide additional dispute resolution options, including community mediation, that are more appropriate to a given conflict or case. Individuals would have the option to resolve their conflicts inside or outside of the court. Many of the cases previously handled by the municipal and justice courts would be shifted to the community dispute resolution centers.

The Justice 2020 vision places the Community Dispute Resolution Centers (CDRC) as the “front door” of the multi-option system. CDRCs would be the mainstream approach
to handling conflicts rather than an alternative to the legal system. Conflicts would start at the CDRC and be routed to the appropriate place. Changing the phrase “Alternative Dispute Resolution” to “Appropriate Dispute Resolution” would be symbolic of the integration into the current system. Consequently, one of the outgrowths of this integration would be a highly specialized and regulated CDRC. The Justice 2020 vision has the potential to create a more efficient system for resolving conflicts, however implementing this vision would require a significant shift in philosophy and ideology by many current mediation programs.

**Trends and Challenges in Community Mediation**

Terry Amsler (1998) acknowledges that, “even programs in the same geographical area may differ widely in terms of their organizational purpose and vision, resources, and scope of service” (p. 1), making it dangerous to generalize about mediation trends. Keeping in mind these dangers Amsler, executive director for the Oregon Dispute Resolution Commission and founding board member of NAFCM, highlights several positive, negative, and future trends of community mediation in the United States.

Increased requests for mediation in a variety of arenas reflect a positive trend in mediation. Use by businesses and organizations is on the rise. Mediation programs are being asked to help with various aspects of conflict management, training, and other “broader forums” (Amsler, 1998, p. 5). Community mediation is also finding more support from national and statewide mediation associations. Combined with growing successfulness
of victim offender programs, increased police support and involvement, the growth of school-based conflict resolution services, and the implementation of creative income-generating services, community mediation has begun to receive more publicity and recognition for its service to the community. Attracting and retaining volunteer mediators from the community has made this possible.

Community mediation faces some growing concerns. The expanding number of available programs is resulting in competition for public and private financial support and competition over much-needed referrals. Partnerships with the courts have raised questions over the role of lawyers in the mediation process and the issue of certification and qualifications for mediators.

Related to qualifications is the issue of volunteer training and specialization and the tension between maximum civic involvement by community members and maximum professionalism of services provided. Many programs are still wrestling with policies and procedures to determine and ensure mediator competency. This issue also raises the question of whether or not only the best mediators should mediate. The struggle to “create culturally competent mediators” and “culturally appropriate processes” (Amsler, 1998, p. 7) is even greater. Given the tremendous burden on staff members and low pay, the turnover of staff members is high, raising questions of program “sustainability and success” (Amsler, 1998, p. 5).

Amsler sees the developing trends of community mediation to include more youth and family centered services. With an “aftercare” strategy, he believes mediation programs will increasingly facilitate, “meetings of youth, their parents/caregivers and others, upon the young person’s release from restricted or secure settings back into their homes, schools, and communities” (Amsler, 1998, p. 7).
Amsler also sees community mediation becoming more tightly integrated into the community by participating in the resolution of local public disputes, developing closer ties with schools, and possibly even getting involved in “the current ‘welfare reform’ movement” (Amsler, 1998, p. 7). Interest from various industries will give rise to new opportunities and potential sources of income generation. These opportunities will most likely benefit urban areas, but leave smaller rural programs to continue struggling with underfunding and understaffing problems. This may cause a merging of programs, forcing more joint efforts in areas of marketing and training. New programs will be less likely to be stand-alone non-profit organizations, but they will have some tie to legal or public agencies.

Amsler believes the interest in “restorative justice” will continue to permeate areas like the state and local justice system, but may lead to a struggle between institutional needs and mediation program values. Mediation and training programs will need more flexibility to accommodate changing community needs and mediator competency, volunteer training, and qualification/certification issues will require further articulation. In response to the “qualifications” debate, some programs may attempt to become “organizationally certified” as competent to train mediators (Amsler, 1998, p. 7).

The most significant trend, according to Amsler (1998) might be the “twin trends toward self-sufficient ‘in-house’ conflict resolution processes by courts and others, and the increasingly professionalization of the field which may call into question the status and qualifications of community mediators” (p. 7). The implication for community mediation may be that mediation programs become integrated into other existing systems.
Criticism of Mediation

Gunning (1995) notes that several critics (Ange, 1985; Reuben, 1994; Abel, 1981; Hofrichter, 1982; cited in Gunning 1995) believe mediation does a disservice to powerless and disadvantaged groups. Gunning (1995) addresses these issues in her article, “Diversity Issues in Mediation: Controlling Negative Cultural Myths.” One argument she reports is that the informality and lack of procedure in mediation makes it more susceptible to prejudice because prejudices can go unchecked and unchallenged (Delgado & Stefancic, 1993). Individuals may claim to uphold values of liberty and equality, while unwittingly continuing to hold inconsistent racist views. These critics also contest that the adversarial process, with its rules and procedures, has attempted to minimize, if not eliminate, racism in the courtroom. Other critics argue that while overt racism may be challenged in the courtroom, it can easily be concealed with the careful use of language and terms and eradicating prejudice from juries is near impossible (King, 1993; Moore, 1989). Some also argue that mediation erroneously communicates that there are agreed upon social and political values, values that tend to be those of the dominant group. The adversarial process places parties on the same level and legitimizes the story of the less powerful (Abel, 1981; Hofrichter, 1982). Whereas mediation may make the stories of the powerless and disadvantaged groups private, but to legitimize them, they ought to be made public. The mediation process, with an emphasis on compromise and collaboration, is also disadvantageous to powerless groups who by nature may tend to be more willing to compromise from the beginning. Women, for example, who have traditionally been socialized to be more relational, may over compromise, raising questions of equity and fairness (MacKinnon, 1989).
In response to these arguments, Gunning establishes that mediation is not inherently bad for disadvantaged and powerless groups. Just as there are steps taken in the courtroom to combat prejudice and racism, steps must be taken in mediation to ensure the same level of protection. Gunning argues that racism cannot be completely expunged from the legal system. Disadvantaged groups may have an even greater need for an appropriate forum where their stories can be heard and an opportunity for connection with the community given. However, she also acknowledges that one of the primary ways mediation is susceptible to prejudice is in the telling of stories. Whether behaviors are deemed “good” or “bad,” for example, are a function of the larger cultural myths in a given culture. Understanding, accepting, and legitimizing these stories require existing cultural myths, but stereotypes and negative cultural myths inhibit the appropriate interpretation of these stories. This places a burden on the mediator to recognize the presence of negative cultural myths and to help parties see them as well.

Helping parties to see negative cultural myths is a type of intervention. Although potentially beneficial in confronting racism, this type of intervention raises several concerns. One concern is if mediators intervene to address negative cultural myths (e.g. stereotypes), some argue that the likelihood of an agreement may be slim. At the least, agreements may take longer to resolve and become much more costly. In addition, intervention can undermine the neutrality of the mediator. Non-intervention is an alternative. In an extreme non-interventionist stance, under no circumstances should a mediator intervene in the process. The overriding issue is that allowing parties to reach their own agreement is paramount. The act of intervention increases the potential for mediators to impose their own values and interpretive framework on the parties.
Gunning argues that some intervention is necessary to balance power, confront racism, address negative cultural myths, and reach a fair settlement. She acknowledges that time and money may be the price for fairness. If agreements are not reached because mediators have intervened to prevent the suppression of a less powerful group, she believes that under those circumstances no agreement may be best. Intervention increases the benefits of mediation to all people, and not just to those who are more powerful.

Gunning asserts that, “The American emphasis on non-intervention as the mark of neutrality is a product of culture” (pp. 83-84). Neutrality is a value consistent with America’s individualistic-oriented culture, but not necessarily shared by others. In other cultures neutrality is not so significant. It is common for family or respected community members to mediate disputes and inject larger community concerns into the mediation process. These differences across cultures illustrate an important issue. Mediators imposing their values and interpretive framework on the process is somewhat unavoidable. Whether articulated or not, mediation is laden with shared values like mutual respect, the ability to agree, individual rights, peaceful resolution, connectedness and community, all of which are encouraged and assumed. Even the silence or “neutrality” of the non-interventionist approach is inadvertently permitting the status quo.

Injecting the shared value of equality is one way to confront negative cultural myths and establish a common basis, regardless of cultural differences between parties and/or the mediators. Gunning states, “In order to structure mediation so that it can work most of the time in favor of everybody, the value of equality must be introduced, injected when necessary. Mediation, then, becomes another locus in American political, social, and legal life where ideas about equality are defined and redefined” (p. 86).
Furthermore, Gunning makes some specific recommendations for training. First, mediators must be sensitized to negative cultural myths, especially their own. Second, she recommends an approach to training based on the cultural knowledge of the participants, in order to avoid teaching your own cultural values. She also advises the use of diverse mediation teams when possible and advocates injecting shared values of equality to ensure justice for disadvantaged identity groups. Lastly, she thinks it important to keep in mind that mediation is not appropriate for all conflicts.

The issues presented by Gunning (1995) provide an important framework for considering mediation and diversity. Mediation, like any other arena, has the potential for abuse or neglect. It is important to be aware of these dangers and to make concerted efforts to address these concerns.

Research Questions:

Oregon, through the Oregon Dispute Resolution Commission and projects like Justice 2020, promotes community mediation as an appropriate dispute resolution approach. As this chapter's discussion indicated, responsiveness to a community's diversity generally, and culture and ethnicity specifically, is an important part of a community mediation program. This study addresses Oregon community mediation programs in terms of ethnicity and culture. It poses the following research questions:

RQ1. What is the nature of community mediation programs in Oregon?
   a. What is the nature of intake, development, and mediation processes?
   b. What is the nature of mediator selection?
RQ2. To what extent do Oregon community mediation programs respond to issues of culture and ethnicity?

a. Do issues of ethnicity and culture affect the intake, development, and process?

b. Are issues of ethnicity and culture considered in mediator selection?

RQ3. What are Oregon community mediation programs outreach activities?

RQ4. Are outreach activities directed at minorities?

RQ5. What do Oregon community mediation programs offer in terms of mediator training?

RQ6. Are issues of culture and ethnicity considered in mediator training?
CHAPTER 3
METHODOLOGY

This study examines community mediation programs in Oregon to assess the extent they deal with matters of culture and ethnicity. As Chapter Two illustrated, there is increasing interest in issues of culture and mediation. Still, research connecting the two, particularly at the community end, is limited.

Currently there are twenty-one community-based mediation programs in Oregon, operating in communities with varying degrees of cultural diversity. This project employs interviews of community mediation program staff members to discover how cultural conflicts are addressed. It is descriptive in nature, seeking to learn the extent to which Oregon community mediation programs handle issues of culture and ethnicity.

No single mediation theory or perspective guides this study. In their provocative book, *The Promise of Mediation*, Bernard Baruch Bush and Joseph Folger (1994) discuss the dominant theoretical and pragmatic mediation orientations: problem-solving and transformative. They assert that problem-solving is the most predominant approach used in mediation programs throughout the United States. This approach emphasizes outcomes; the pursuit and development of working agreements between parties. The transformative approach emphasizes process; the empowerment and recognition of parties as they work toward agreement.

As descriptive research, this study seeks to discover what Oregon community mediation programs are and what they do, particularly in matters of culture and ethnicity. Consequently, no one mediation approach guides this study. This study respects both dominant mediation orientations.
Research Orientation

To date there has been no comprehensive statewide study of Oregon community mediation programs. In attempting to fill part of this void, this study is explanatory via description. According to Emory (1985), descriptive research is “the discovery of answers to the who, what, when, where, and how questions rather than the why questions” (p. 8). It is an important starting point that establishes a foundation for future research (Dubin, 1978). Furthermore, descriptive research emphasizes, “systematic inquiry is necessary for the growth and development of any academic discipline” (Frey, Botan, Friedman, & Kreps, 1991, p. 26).

This study is qualitative in nature. It gathers and analyzes data in the form of words rather than numbers (Frey, et. al., 1992) and “findings are not arrived by means of statistical procedures or other means of quantification” (Strauss & Corbin, 1992, p.17). Strauss and Corbin (1992) note that qualitative research can embody different approaches, such as phenomenology, ethnography, and grounded theory. Cahn and Hanford (1984) point out that, “one of the most important points in phenomenology is its attempt to do justice to the uniqueness of the individual and the uniqueness of the individual’s world view” (p. 279). This research respects the uniqueness of each community mediation program studied as well as the uniqueness of those individuals who lead and speak on behalf of these programs. In both phenomenology and ethnography, researchers try to understand from the participant’s viewpoint (Frey, et. al., 1992). This study attempts to describe how the respondents understand their situation by using loosely structured interviews to foster oral reporting and interaction.
Interviews

This study employs interviews to gather information. The choice to use interviews over other methods, such as questionnaires and observations, was based on the fact that interviews permit greater depth and breadth of information. Interviews provide a better opportunity for respondents to give more detailed explanations, ask questions, and clarify responses (Emory, 1985). The rapport established between interviewer and interviewee also contributes to the ability to obtain more detailed, accurate responses (Frey et. al., 1992). In addition, interviews gather a large amount of data in a short period of time (Frey et. al., 1992). Questionnaires, for example, can be tedious and time-consuming for the respondent, potentially resulting in refusals to participate or incomplete answers. In this study, interviewing each participant was feasible due to the small number and accessibility of respondents.

Selection of Interviewees

The selection of interviewees is based on a list provided by the Oregon Dispute Resolution Commission (ODRC). This list, posted on the ODRC web site (1998), is made up primarily of community or victim offender mediation programs. Technically victim offender programs are not considered community mediation programs, but for the purposes of the ODRC, the victim offender programs fall under the generic umbrella of community dispute resolution (Amsler, 1998). Some of the programs are non-profit agencies, others are court-based programs, and not all of the programs listed with the ODRC are recipients of ODRC funds. However, all of the programs loosely reflect the nine elements (also mentioned in Chapter Two) established by the National Association for Community...
Mediation (NAFCM) characterizing community mediation. They are as follows:

1) the use of trained community volunteers
2) sponsorship by a private non-profit or public agency with a governing /advisory board
3) the use of mediators who represent the diversity of the community served
4) the provision of direct access of mediation to the public
5) the provision of services to the public regardless of the ability to pay
6) the promotion of collaborative community relationships
7) the encouragement of public awareness
8) intervention during the early stages of conflict
9) the provision of an alternative to the judicial system at any stage in the conflict.

Participants and Procedure

An interview request was made by telephone to all current, permanent or acting directors from twenty-one programs. Nineteen programs participated. In one case, two coordinators from the same organization were both interviewed, due to the fact that two programs had recently merged into one organization, but they still operated separate programs. Thus, the total number of interviews conducted was twenty.

All participation was voluntary. The data of this study were gathered by conducting face-to-face interviews when possible and phone interviews when travel distance prohibited an in-person interview.
Interview Guide

The interview guide (See Appendix A) covered five topic areas: general, outreach, training, mediator selection, and intake process. These categories represented a broad spectrum of elements critical to the organization and maintenance of a community mediation program. The general questions fulfilled three primary objectives: they provided general background information about the program, enabled the interviewee to give an overview of their program without prompting for specific information, and established a comfortable non-threatening interview climate.

The outreach questions were designed to reveal the extent to which programs initiate contact with the public. These questions provided information about who in the target audience is finding out about the program and through what means. A program's perception of how much outreach was needed, its vision for future outreach, and the available resources for outreach were all important indicators of program structure and visibility within the community.

Questions related to training were essential because training is an important avenue for disseminating information and transferring values to incoming and existing members. These questions sought to find out what training was offered, the type of training and experience required for mediators, and the nature of training offered related to issues of culture and ethnicity.

Mediator selection questions were designed to discover who mediates and why. Of primary interest was whether there was a relationship between the type of case and the type of mediator chosen for the job. This was particularly useful information in cases involving
culture and ethnicity because it reflects what changes, if any, are made to accommodate such cases. Understanding the standard process for selecting mediators for each case provided an important comparison for information related to cases where culture or ethnicity is a factor.

The last series of questions related to the intake process. These questions reflected the structure of the mediation process as well as indicated to some extent the type of mediation model being used. In concert, this information painted a picture of what was important, how things should be done, and who should do them. Each section also included questions addressing the issues of culture and ethnicity.

**Data Recording Protocol**

During each interview, responses were handwritten on a pre-printed list of questions. With the respondent’s permission, interviews were also tape-recorded. Interviews were held on-site when possible, usually in the respondent’s office or conference room. Actual location of the interview was at the respondent’s discretion. Most interviews lasted approximately 30 to 50 minutes.

**Analysis of Data**

After all the interviews were completed, participant responses were taken from the filed notes and recorded on notecards. Each tape-recording was played back as many times as necessary to understand and dictate responses on notecards.

Each interview question had a corresponding notecard, labeled with the respondent’s identification and question number. Responses not corresponding to a particular question were placed on a notecard titled “Miscellaneous.” Responses applicable to several questions
were written on each corresponding notecard. Answers more applicable to a different question than the one being asked were notated on the appropriate question notecard.

The first step in analyzing the data was to establish categories and sub-categories of all the questions on the interview guide. Some interview questions fell into multiple categories. Notecards were analyzed in an order consistent with the interview question groupings. For example, all questions related to mediator training were analyzed in one sitting to establish patterns and themes within questions in addition to any potential patterns on the broader category of mediator training.

Interview question notecards were laid out like playing cards to systematically review for patterns, similarities, and differences, highlighting any significant information. When applicable, notecards were shuffled into multiple groupings and recorded. For instance, notecards were placed into two sets. One set reflected programs that offer mediation training and one set reflected those that do not. Once this information was noted, the same notecards were rearranged to reflect the number of mediation training hours offered. This shuffling of notecards continued until all relevant groupings and patterns were determined. When appropriate, the data from particular questions were placed into a table for quick comparison.
CHAPTER 4
RESULTS

The previous chapter addressed the method used for this study. This chapter presents the data gathered through interviews with program representatives from twenty community mediation programs in Oregon. Prior to doing so, this chapter features a glossary of frequently used terms that might be unfamiliar to the reader. Following the glossary is a chart with general program information, such as the names of each program, the representative interviewed, services offered, sources of clients, number of staff members, cases per year, and the number of active mediators.

Interview questions are arranged into eight sections. The first section discussed general program history, funding, referral sources, and a short description of each program's mediation process. The second section addressed whether Oregon programs service minority groups. The third segment discussed the process of assigning or selecting mediators for each case and the mediation model used for mediators. Section four reviews responses to questions related to mediator training. A table is included for quick reference of programs that provide training, how often they provide it, and the number of hours of each training. The fifth section considers training issues related to culture. Issues related to outreach to the community are included in the sixth segment, followed by a seventh component on outreach for volunteers. The last section surveyed mediation and ethnic minorities, particularly looking at program responsiveness to issues of culture and ethnic diversity.
Glossary of Terms

Case Development  This refers to the process of gathering information related to the disputants and conflict issues prior to actual mediation.

FED  Forcible Entry and Detainer cases are landlord-tenant eviction cases.

Individual Mediation  Also called, “phone mediation,” mediators talk to the parties over the phone about the dispute, calling the various parties numerous times, if necessary, to reach an understanding or agreement.

Intake  Collecting information during the initial contact, such as when an individual or referral first contacts a mediation program with a concern.

Juvenile Department  Refers to that office of county government that deals with juvenile issues. Each county has a juvenile department.

Referral  An individual or organization, other than the parties, who recommends mediation to one of the disputants.

Self-referral  A party who contacts a mediation program on his or her own initiative.

Table Mediation  Also referred to as, “going to the table,” this is the literal act of both parties and a mediator sitting at a table, face-to-face to resolve a dispute.

Word of Mouth  Refers to one individual telling another individual about mediation. This phrase suggests that the party has been told about mediation through an informal mechanism rather than an established organization or process.

Mediation Programs in Oregon

Table 4.1 provides an overview of each program.
## TABLE 4.1: Oregon Community Mediation Programs

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Program Name</th>
<th>Interviewee</th>
<th>Services Offered</th>
<th>Source of Clients</th>
<th>Staff</th>
<th>Cases/Yr</th>
<th>Mediators</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCDRC</td>
<td>Beaverton Community Dispute Resolution Center</td>
<td>Rebecca Sweetland</td>
<td>neighborhood, VO (juv only)</td>
<td>police dept, legal aid, housing authority, apt managers, neighborhood associations, homeowners, self-referrals</td>
<td>3.166</td>
<td>350-400</td>
<td>25</td>
</tr>
<tr>
<td>CCDRC</td>
<td>Clackamas County Dispute Resolution Center, Marylhurst</td>
<td>Stan Sitnick</td>
<td>code enforcement cases, neighborhood, workplace</td>
<td>municipalities, sheriff, contracts with code agency, mobile home ombudsman</td>
<td>2.5</td>
<td>250</td>
<td>25-30</td>
</tr>
<tr>
<td>CCVOMP</td>
<td>Clackamas County Victim Offender Mediation Program, Oregon City</td>
<td>Warren Oster</td>
<td>VO</td>
<td>all referrals through juvenile department--counselors have to refer kids</td>
<td>1</td>
<td>135</td>
<td>12</td>
</tr>
<tr>
<td>CDRPDC</td>
<td>Community Dispute Resolution Program of Deschutes County, Bend</td>
<td>Sue Stoneman</td>
<td>neighborhood</td>
<td>np</td>
<td>1</td>
<td>np</td>
<td>25-30</td>
</tr>
<tr>
<td>CO</td>
<td>Community Outreach Inc., Mediation Services, Corvallis</td>
<td>Jim Watson</td>
<td>neighborhood, parent/adolescent</td>
<td>police, social services, co &amp; city agencies, word-of-mouth, yellow pgs, 24hr crisis line, lawyers, professional mediators, animal control, consumer-merchants, animal control</td>
<td>1.1fte</td>
<td>36-120</td>
<td>22</td>
</tr>
<tr>
<td>CYFMP</td>
<td>Clackamas Youth and Family Mediation Program, Oregon City</td>
<td>Amy Swift</td>
<td>youth &amp; family, peer mediation</td>
<td>juvenile justice, schools, case worker, mental health, self-referrals</td>
<td>2</td>
<td>300-330</td>
<td>20</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Program Name</td>
<td>Interviewee</td>
<td>Services Offered</td>
<td>Source of Clients</td>
<td>Staff</td>
<td>Cases/Yr</td>
<td>Mediators</td>
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<tr>
<td>DCMS</td>
<td>Deschutes County Mediation Services, Bend</td>
<td>Don Cole</td>
<td>small claims (court-connected), FED</td>
<td>small claims &amp; FED court</td>
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<td>Lee Petmecky</td>
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<td>Lane Community Mediation Services, Inc., Eugene</td>
<td>Sandy Murphy</td>
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<td>Cases/Yr</td>
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<td>Jamie Damon</td>
<td>neighborhood</td>
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<td>Drinda Lombardi</td>
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<td>Betsy Coddington</td>
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TABLE 4.1, Continued

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<td>Marguerite Aichele</td>
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<td>Polk VORP/Community Mediation Services, Dallas</td>
<td>Sandi Pattison</td>
<td>began as VO, added neighborhood/community, peer med, parent/adolescent</td>
<td>VO=80% juvenile dept, 20% court/district attorney's office, CM=polk co planning commission, police, self-referrals, pastors</td>
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<td>Tricia Crawford</td>
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Intake, Development, and Process

Program representatives were asked about the steps of mediation they employ. Questions were presented about the intake process and case development. The process for each program varied considerably. This section reports how each program handled intake and case development.

The Washington County Beaverton Community Dispute Resolution Center (BCDRC) has been open since 1988. Up until fairly recently, the center only handled neighborhood disputes. Now it handles victim offender cases as well. BCDRC is responsible for all of Washington County except Hillsboro. To stay competitive, BCDRC feels they must expand its services. Next year its goal is to do research to decide what areas to emphasize. Some of the possibilities include: ethnic communities, school/youth, apartments (Beaverton has the highest apartment dwellers per capita in the state at 60%), and business.

Currently most cases involve landlord-tenants, businesses and consumers, neighborhood organizations and developers. The victim offender program handles juvenile cases only. All victim offender referrals come from the Washington County Juvenile Justice. The BCDRC also has a contract with Tigard to do all of its neighborhood disputes.

When people call in, either by phone or in person, they are asked how they heard about the program, are told about the services BCDRC provides, and what BCDRC can and cannot do. BCDRC also explains its confidentiality policy and asks for permission to contact the other party. The intake person or anyone answering the phone fills out a form and gives it to the program coordinator. The program coordinator then reviews and assigns the case to a volunteer. The volunteer, or case manager, contacts the initiating party to
gather more in-depth information. About 80-90% of cases are resolved over the phone. In contrast, 100% of victim offender cases go to the table. The other party is then contacted and either the case is resolved over the phone or it goes to table mediation. If it does go to the table, a different mediator is assigned the case. Case managers also stay in the room, but do not mediate to increase neutrality. Mediation usually occurs in City Hall or sometimes on site. Victim offender cases are mediated in public buildings or churches.

**Community Outreach (CO)** in Corvallis is new to mediation as of October 31, 1997. In the Fall of 1997, CO was contacted by a related agency, Community Mediation and Dispute Resolution Services (CMDRS), saying that it was in trouble and asking to merge with CO. As a result, on October 31, 1997, CMDRS ceased to exist and Community Outreach took over its caseload. The inherited programs included victim offender, neighborhood, parent/adolescent, and public training and presentations. In June of 1998, however, Community Outreach no longer had a contract to do victim offender reconciliation. Currently CO only does neighborhood and parent/adolescent mediation.

CO’s mediation process typically begins with a referral from an organization, such as, the police, social service agencies, a county or city agency, and so on. Then CO sends a letter to the disputants containing a brochure about mediation and notification that CO will contact them within five days. At this point, a staff member assigns the case to a case developer/mediator. The case developer, who is also the mediator, then contacts the individual(s) by phone and gathers all the necessary information. Actual mediation occurs all over town—wherever there is space.

The **Clackamas County Dispute Resolution Center (CCDRC)** is a small county agency within Employment Training and Business Services. ODRC funding represents about 15% of CCDRC’s funding. It receives referrals primarily from the municipalities in
the county. It maintains a contract with the Sheriff, the State Mobile Home Ombudsman, and with the Code Agency. The CCDRC also receives many workplace, neighborhood, and landlord tenant cases. How the case comes to the center varies by source. The sheriff's office gives parties a referral card and the parties call the CCDRC themselves. In Code Agency cases, before CCDRC ever receives a call, the Code Agency screens the case, sends a letter to complainants, and sends a case sheet to the CCDRC.

All in-coming phone calls are answered by a staff person and screened. Difficult and complex cases are reserved for staff members to mediate. Other cases are assigned to a volunteer mediator (case developer) who talks to the party that initiated contact. The case developer determines what the next step is and who will call the second party, etc. In most instances, the case developer takes the case through the phone process of gathering information and potentially resolving the conflict over the phone. Particularly in neighborhood cases, the goal is to be as quick and efficient as possible, which means most of the work is done over the phone. Approximately twenty percent of cases go to the table. If the case is going to the table, the case developer schedules the mediation session, but does not necessarily mediate the case—it all depends on the situation. The location for table mediation varies. It is often done on site, but the farther away the case is, the more likely that mediator(s) will go to a location near the disputants.

The Clackamas County Victim Offender Mediation Program (CCVOMP) started as a pilot program in 1994 but died for lack of funding. It started up again in 1995 with funding through the county and is currently fully funded through the county. This program is one of the few programs not receiving funding from the ODRC.
Unlike other programs with various referral sources, CCVOMP receives all of its referrals through the Juvenile Department. Counselors have to refer youths and children to the victim offender program.

Once a case has been referred, CCVOMP sends a letter to the offender(s) requesting a meeting regarding mediation. All information gathering must be done face-to-face. It must be determined whether or not the offender’s case is appropriate for mediation. If so, the victim is contacted. Recently Juvenile Department counselors have begun to learn about the victim offender program and are able to set up joint meetings with CCVOMP to determine if offenders are suitable for mediation. This makes it unnecessary for the initial letter to be sent out. The program coordinator does both case development and mediation. Volunteer mediators have the option of being involved in case development, but most do not have the time or inclination. Most mediators get involved at the mediation table. Half of the mediation sessions occur on site and the other half occur out in the Clackamas County community.

Clackamas Youth and Family Mediation Program (CYFMP) is part of Clackamas County Family Court Services. It started in 1995 with a one-year pilot project grant to use adult and teen mediators in family dispute situations. After the initial first year, funding was picked up, in part by the County Commission for Children and Families, and in part by the ODRC.

The program is designed to encourage teens to mediate. Teens are paired with an adult to mediate cases regarding runaways, skipping school, curfews, drugs, and other youth and family problems. As part of the peer mediation program, teens are also used to teach their peers how to mediate. Juvenile Justice refers about 40% of the CYFMP cases and junior high and high schools refer about 25% of the cases.
Usually a family will call CYFMP because they have been told about the program through the school or Juvenile Justice authorities. Sometimes a caseworker will call CYFMP with a case. When CYFMP receives a call from a parent or caseworker, a staff person assesses the situation and schedules an appointment for mediation. CYFMP tries to get parties in for mediation within a couple of days. Intake is done over the phone but is done minimally. This is to prevent bias prior to hearing the case. After the intake, the case is assigned to mediators, who know little about the case prior to mediation. Mediation occurs on site or, if the disputants are farther away, mediation occurs at the schools.

Community Dispute Resolution Program of Deschutes County (CDRPDC) is a private, non-profit organization spearheaded by volunteers in the Tri-Cities of Bend, Redmond, and Sisters. Volunteers worked on developing the program for nearly two years before receiving county and city funding. The program opened August 1, 1997, three months prior to the researcher’s interview. Consequently, CDRPDC’s administrative director was able to provide only limited information at the time of the interview.

Deschutes County Mediation Services (DCMS) began officially in the spring of 1994. DCMS held its first training that spring and a short time later sponsored an FED mediation training, which is training for cases involving landlord-tenant evictions. An ODRC grant, given jointly to Deschutes County and the state courts, provided initial program funding. Fifty volunteers were trained. Now the Deschutes County Victim Offender Mediation Program is the ongoing recipient of those funds. Current funding for the DCMS is provided as part of the Oregon Judicial Department budget for the 22nd District. This program is limited to small claims and FED mediation.
It is not officially affiliated with the Deschutes County Community Dispute Resolution Program (CDRPDC), but many of the volunteers from the DCMS program had a vision for the CDRPDC program.

DCMS's primary clients are collection agencies, rental management agencies and for FED, rental management companies and private citizens. All mediation cases begin with a filed complaint in Small Claims or FED Court. In Small Claims Court one party pays to have a complaint served and the other party, the defendant, has fourteen days to file an answer. Once the defendant files an answer, a trial date is set. Along with trial date notification, parties also receive information about mediation. Parties meet with a mediator the day of the trial, approximately 1-2 hours prior to going to court. FED cases are considered high priority. The allegation is that either someone is damaging property or is not paying rent. As soon as the complaint is filed, a summons and notice is sent to the defendant to appear in court within eight days. If the defendant disagrees with the complaint or has defenses, they must file an answer. Once an answer is filed, the case is set for trial within 14 days. Before the defendant files an answer the DCMS's director, Don Cole, meets with the defendant and encourages the parties involved to mediate.

Because of the unique nature of this type of mediation process, there is no case development. In Small Claims Court the mediator sees a case file containing the claims and counter claims just prior to the mediation session. Some mediators choose not to see the file for fear that it might bias them. All mediation sessions occur in courthouse jury rooms.
Deschutes County Victim Offender Mediation Program (DCVOMP) handles strictly victim offender cases where police have cited someone with an offense. Cases are referred by departments in the Justice Department and include both juvenile and adult cases. Unlike the Clackamas County Victim Offender Mediation Program (CCVOMP), cases are not limited to Juvenile Department referrals.

DCVOMP receives a case referral in the form of a police report, which includes the name of the victim. The referring department sends the victim a brochure, letter, and a lostdoc form (a claim of what has been lost). From this point, DCVOMP calls the victim and asks for his or her input. In some cases a letter is sent out prior to this. Information is gathered through the police report and by the program director. Mediation usually occurs on site, but because Deschutes County is a big area, mediation sometimes occurs in a neutral environment in the vicinity of the parties.

After a year of planning and preparation, the Douglas County Neighbor-to-Neighbor (DCNN) program in Roseburg was incorporated in the spring of 1996, and approved by the ODRC in August of 1996. Funding comes from the ODRC and Mobile Home Ombudsmen, a pilot project in five counties. DCNN is working to get a majority of funding through contracts. Services include an agreement with the Housing and Community Services to do mobile home park outreach, neighborhood, victim offender, parent/adolescent, and landlord-tenant mediation. DCNN is now entering into an agreement with the Juvenile Justice Department. DCNN used to do small claims, but does not do so currently.
Referrals are taken over the phone and the intake person determines who will contact the second party. A staff member, not the mediator, gathers the initial information so that the mediator does not know too much before going into mediation. This is not true in juvenile victim offender cases, however. In juvenile victim offender situations, mediators are familiar with the case prior to the initial mediation session.

Mediation is conducted wherever the parties are, usually somewhere other than on site due to small, not-so-cheerful accommodations. If the parties are not in Roseburg, the DCNN asks the parties to help them help find a suitable location for mediation. On one rare occasion with very special circumstances, mediation took place in a home.

The Hillsboro Dispute Resolution Program (HDRP) is the only program in Oregon under the umbrella of a police department’s community policing program. The Hillsboro Chief of Police (who is apparently very proactive and visionary) decided that the police needed another way to deal with conflict other than guns, badges, and force. The mediation program was therefore established to reduce repeat calls. It was a way to keep police officers from having to go out night after night to the same neighborhoods for the same problems. Second, the program was established to expand the horizons of police activities by introducing a proactive new tool.

Most HDRP cases involve community neighborhood issues, business-to-business conflicts, and some landlord-tenant disputes. HDRP is starting a new program with schools that brings in a few more youth and family cases. As would be expected, most referrals come from the police department. Victim offender cases are referred to the Beaverton Community Dispute Resolution Center. Police officers carry mediation brochures with them and write “mediation referral” on their police reports. After receiving police referrals, HDRP gives the disputants a courtesy call.
Intake occurs over the phone by the program coordinator, but a minimal amount of information is gathered—just enough to understand what is going on. A volunteer is then assigned the case and given a packet of information, including a scheduled mediation, and the volunteer is asked if he or she is available during the scheduled time. The mediator goes straight into the mediation with very little background information on the case.

Another unique aspect of this program is that all cases are brought to the table. All mediation sessions require face-to-face interaction. The purpose of this is to facilitate a transformative approach to mediation (Bush & Folger, 1994). In order to do this, HDRP believes people must be able to talk to each other face-to-face and see what is really going on with one another. Mediation never occurs on site in the police department because it is too intimidating. There are several locations around the community available for HDRP's use.

Initial planning for the Jackson County Dispute Resolution Center, Inc. (JCDRC) in Medford began in late 1988, leading to incorporation in 1990. It consists of four programs: community mediation, small claims, victim offender, and education. Its small claims program is the only one in Oregon separated from the court. JCDRC contracts with the court to provide small claims mediation. The education program is designed to meet the needs of organizations, businesses, and schools. At this point, most of what the education program does is with schools. One of JCDRC's major educational projects is helping schools set up peer mediation programs. JCDRC also provides a variety of conflict management oriented trainings.

The people using JCDRC's various services are generally white, middle class and relatively educated. JCDRC's four programs have a variety of referral sources. Small claims referrals come from the court, victim offender referrals come from Juvenile Hall, education
activities evolve through outreach to schools and through word of mouth, and community mediation cases stem from connections with community service officers, Southern Oregon State University, local schools, and other outreach efforts.

The office administrator answers the majority of intake calls using an intake form. The intake person also calls the parties concerned, getting a limited amount of information. Once both parties agree to mediate, the case is handed to a case developer, usually the program coordinator. Sometimes it is delegated to a volunteer. After the issues of the dispute have been clarified, the case is assigned to a mediator. Although the center’s location was chosen purposefully, JDCRC does most of its work off site. Small claims mediation takes place at the courthouse, training for schools occurs at the schools, victim offender mediation is held at the Juvenile Department, and community mediation generally occurs at sites convenient for the disputants.

Lane Community Mediation Services, Inc. (LCMS) is unique in that it relies on self-managed teams for administration. Each staff group has an area that they manage. In addition to handling neighborhood cases, LCMS also handles pre-small claims, parent/adolescent, construction-related, contract breakdowns, mobile home park disputes, and a restorative justice program (RJP).

When a party calls, anyone available in the office can answer and fill out the pertinent information on an intake form. Some volunteers do not have mediation training, but are available to answer phones. Within three days after the first contact, a mediator calls the initiating party. The program manager takes the intake form and transfers the information into a case management form in the case log and gives the case a number. The
case log contains the information provided to the ODRC. Once these steps have taken place, the information is passed on to the volunteer manager, who finds a mediator/case developer. Mediators are assigned on a rotation basis. The mediator calls both parties and gathers information. Mediation occurs on site.

Located in Oregon’s largest county in terms of square miles, Linn County VORP/Mediation Services (LCVORP/MS) in Albany is a private non-profit organization that started in about 1987 to do victim offender mediation. Although it has expanded, it is still predominantly a victim offender organization. LCVORP/MS also provides some peer-mediation and consultation to middle schools and high schools, family mediation, parent/adolescent mediation, workplace mediation, and community training. LCVORP/MS does a little neighborhood mediation and is starting a small claims mediation program.

LCVORP/MS offers two classes a month for the Juvenile Department. One class is for juvenile property offenders on the scope and impact of victimization. The second class is for offenders charged with a criminal offense such as assault. This six-hour course addresses perceptions in conflicts and alternative responses.

Most referrals are by word of mouth, but some special referrals do come from the police, schools, and community members. Victim offender cases are referred by the court or Juvenile Department. Apart from some police referrals, almost all referrals are received by telephone. During the initial phone conversation a staff person fills out a referral form. This information is logged into the computer, a case file is set up, and an introduction letter is sent out, followed by a phone call. Information gathering interviews are scheduled with both parties. In neighborhood cases this is usually done over the phone, but an assessment is made on a case-by-case basis. Victim offender cases almost always require a face-to-face
meeting with the victim and a separate meeting with the offender. The mediator normally handles the case from start to finish, conducting both the information gathering and the mediation session. In family and community mediation, information gathering is sometimes done by the person who mediates, but is often done by staff. Mediation occurs on site and in the community in which the dispute originates (e.g., Albany, Lebanon, Sweet Home).

Marion County Neighbor-to-Neighbor, Inc. (MCNN) was founded in 1985, making MCNN one of the oldest community mediation programs in Oregon. In 1985 a group of Marion County community activists participated in San Francisco Community Board’s training program. As a result, these activists established MCNN. It became ODRC funded in 1992. All funding is currently from the ODRC.

Services include community mediation, adult and juvenile victim offender, manufactured homes disputes, and youth and family mediation. Although the program gets widespread usage, the majority of cases are neighborhood disputes. Referrals are generated through legal aid, the sheriff’s department, dog control department, and various other sources.

When a case is referred to MCNN, a staff member does the initial intake and then gives the intake sheet to the mediator or case developer. The mediator, who is also the case developer, makes a personal visit to the parties. Mediation occurs on site unless the dispute involves more than two people, in which case it is handled in a church, Willamette University Law School, or other available community locations.

The Multnomah County East Metro Mediation (MCEMM) program has been helping neighbors work through conflict situations since 1992. Typical cases include neighborhood, business-related, landlord-tenant, and larger community facilitation/mediation.
Although calls often come in from a person in dispute, a case may have been referred by some agency, such as the police department. During the initial call, basic information is taken down and the disputant is told that a mediator will call. Questions address disputants’ views about the nature of the conflict, how they have been affected, and what they have tried to do. In fact, most of the work in neighborhood dispute situations is done over the telephone. Via “telephone mediation” or “individual mediation,” the mediator talks back and forth to both parties until an agreement or impasse is reached. Only a small percentage of cases, about 10-15%, are addressed via face-to-face disputant interaction. Mediators conduct the information gathering and handle the telephone mediation. Cases that do go to the table are handled on site.

The Multnomah County Neighborhood Mediation Center (MCNMC) is currently facing a significant and challenging funding situation. In 1978, The Neighborhood Mediation Center of Portland was originally one of three programs jointly funded with city, county, and federal dollars. During the early 1980’s, the federal money dried up and the county and city consolidated so that all three programs merged into one program and became wholly city funded within the Bureau of Metropolitan Human Relations Commission. In 1984, the program was placed under the auspices of The Office of Neighborhood Associations within the city. Since the 1980’s it has been a city agency, 100% city funded. Ballot measure 47 (which limited property taxes, a primary source of local government revenue) prompted the city to investigate and see if it could save money by turning the program into a non-profit agency. Several factors have prevented this from happening. The first was the sudden death of the program’s director of 19 years. Second, the city discovered new information regarding obligations to city employees in non-profit organizations that inhibited completing the conversion. Consequently, at the end of 1997 a
citizen advisory panel was appointed to review what should be done with the program. The citizens group considered whether the mediation program should be a city agency or non-profit organization. This committee met for months on a weekly basis, examining other programs around the nation. Their recommendation, in light of the budget situation, was to maintain the status quo for one full fiscal year. During that time, a new director would be hired, an advisory board established, the number of volunteers increased, and programmatic changes made. The committee agreed that at the beginning of the next budget cycle another assessment would be required.

MCNMC is strictly a neighbor-to-neighbor mediation program, including landlord-tenant disputes. Its primary referring sources are city agencies like the Nuisance Bureau and the office of Code Enforcement. The Police Bureau is its second highest referral source. An important network and source of referrals is through the city’s ninety-three neighborhood organizations and district coalitions that support individual neighborhood organizations and get funding from the city. Although most referrals come by phone, there is a small percentage of walk-ins. The community location of the center is very valuable. For those who live around the area, it is very accessible and easy for people to come. Because the center has been around a long time, there is also a high rate of self-referrals.

When MCNMC receives a call, the office manager, who is also the intake specialist, talks to the disputant or referring person. They discuss the program and the caller’s concerns. The office manager then decides on the spot if the case falls within the bounds of MCNMC’s services. If so, the intake specialist takes down the important information. This is just the initial assessment and preliminary information gathering. The case then goes to a staff member or volunteer mediator to do further information gathering. Both staff and volunteers do case development. Each staff person is responsible for a particular geographic
area. Cases that fall within a staff person’s geographic area are assigned to that staff member. The staff member then makes a call to the first party, listens to their situation, and determines what to do next. Mediation occurs as close to the dispute situation as possible.

**Multnomah County Resolutions Northwest (MCRN)** was formed to do victim offender work. Ninety-nine percent of cases are juvenile cases. Starting in February 1988 MCRN began providing family mediation services when the Multnomah County Youth and Family Services Program became part of Resolutions Northwest.

Juvenile Justice is the primary referring agency. However, when there are restitution issues involved, referrals may come from family centers. Most cases are diversion cases, which means that if the juvenile offender is successful in this program, nothing else happens and the incident does not go on the offender’s record. Recently MCRN has been receiving cases adjudicated by counselors who see value in the juvenile offender meeting with the victim to begin restitution, or to have family issues worked out.

Most necessary information appears in the case file from juvenile justice. The data are put into a data management system and a letter is sent out. The letter lets the offender know that he or she has been referred to Resolutions Northwest, explains what mediation is, schedules a mediation date 3-4 weeks later, and invites him or her to call. If not called first, MCRN follows up with a phone call. Most offenders do not know what mediation is and need the process explained to them. Victims need even more information and persuasion that it is a safe process with a good track record.

The mediators do not meet with the parties before mediation. Staff members do case development and the mediators come in “cold” with a very limited file. This is done to assure that mediators are 100% neutral. Mediation sessions occur on site in the evenings.
Multnomah County Resolutions Northwest Youth and Family Services (MCRNYFS), as explained above, is the merger of a victim offender program and a youth and family services program. The Youth and Family Services program began in 1988, via a grant, at a family center in town. In 1991 the Youth Services Consortium, a non-profit membership youth agency, took over the program. This seemed like a good fit initially, because Youth Services Consortium (YSC) is a neutral agency serving all the agencies. However, YSC does not provide direct service, which MCRNYFS does. This made it an awkward partnership. In February 1988, the Youth and Family Services Program merged with Resolutions Northwest. Both programs focus on teen clients, making it a natural partnership.

Some referrals are from call-ins, but most are from family centers (counselors or diversion counselors). Instead of the traditional legal system, Juvenile Justice sends teens to family centers where diversion counselors develop a contract for the offender. This contract may include mediation, counseling, an apology letter, or community service. School counselors may also refer cases. The referral source will either fax MCRNYFS an intake sheet or call with an offender’s phone number. During the initial conversation with the parties, a Resolutions Northwest staff person finds out preliminary information and available times for mediation. A mediator is selected for the case and a mediation site is secured. After each mediation session, a staff person meets with the mediators to debrief the mediation.

Most mediation occurs off-site in a place convenient for the parties. When possible MCRNYFS tries to hold mediation sessions in the family center closest to the parties. This is to encourage the parties to utilize all the other resources of the family center.
Formed by citizens concerned about crime and wanting to make a positive impact, Polk VORP/Community Mediation Services (PVORP/CMS) was founded in 1984. It was established to handle victim offender cases with a focus on restorative justice. In its first year it had six victim offender referrals. In 1998 there were over 200 victim offender cases. Peer mediation, community mediation, and parent/adolescent mediation were added to the program a few years later. Eighty percent of victim offender referrals are from the Juvenile Department and twenty percent come from the court or district attorney’s office. Non-victim offender case referral sources include schools, police, and self-referrals. Many community mediation referrals come from the Polk County Planning Commissioners and police department.

When a case first appears it is logged into a case management program. With victim offender cases, PVORP/CMS strongly believes in the preliminary interview process. When possible this is done in-person. The person doing the initial interview varies, but is preferably the person who mediates the case. Occasionally, the director’s assistant or the director will gather the information and pass it on to the mediator. Mediation frequently occurs on site, but it is also held in various pre-approved sites around the county.

In 1989, Community Conciliation, a dispute resolution program then based in Newberg, wanted to develop a mediation program in McMinnville. The Yamhill County Mediators (YCM) program was established for all of Yamhill County. YCM’s funding is through the ODRC and via a contract with the Yamhill County Juvenile Department. Services include neighborhood mediation, victim offender, and parent/adolescent mediation. In 1997 YCM received fewer referrals, perhaps due to the deterrent effect of the new
juvenile detention center and the presence of a strong peer mediation program. Most referrals come from police departments throughout the county, the housing authority, Realtors, and other various sources.

When an individual calls YCM, a volunteer listens to the person’s story, gets pertinent information, and writes a letter to the second party. After the letter has been sent, the volunteer follows-up the letter with a phone call. In community mediation cases, a staff member (who is not the mediator) does information gathering for the case. Information gathering is done on the phone. In victim offender cases, the mediator also does information gathering, but does so in person. Mediation sessions occur somewhere in the community that the parties reside. There are public sites available to the program.

**Do Oregon Programs Service Minorities?**

When asked whether minority groups use their services, only one program responded with a resounding yes. The Neighborhood Mediation Center in Portland primarily services minorities. Until February of 1997, all of MCNMC staff members were African American. At the time of the interview, only one staff person was white. In addition to staff members reflecting the demographic makeup of the community, MCNMC’s central location was noted as a primary reason for its widespread use by minority groups. Housed in the middle of a predominantly black neighborhood, the center is serviced and used by its black community members.

In contrast, one program interviewee stated that her program does not track minority groups. Her program, she reported, tries to serve the entire community appropriately. Another respondent explained that he does not meet most of the clients and was therefore unaware of minority groups using his program’s services.
The remaining respondents claimed that minority groups use their services some, but minimally. The most frequent response from this group was that although minority groups on occasion use their services, it is not as much as they would hope. Several respondents commented that minority groups are not as likely to bring issues to strangers. Other feedback from various programs included receiving a lack of response to presentations given in a Hispanic community, the acknowledgment of on-going attempts to becoming more culturally competent, and that efforts were underway to recruit bicultural and bilingual board members, volunteers, and staff.

**Mediator Selection**

In the interviews, program representatives were asked about mediation models, mediator selections, and mediator selection in cases where culture is a factor. All but four programs use a co-mediation model. One program employs a panel process of three-mediators and a consultant. The consultant is someone who is experienced in mediation. This person provides supervision and briefs the panel in and out of the mediation session.

The three other programs that do not generally co-mediate, only do so when the mediator is not comfortable with the situation, there is a large group involved, or some other special circumstances are involved. Two of these programs are victim-offender program and the other is a small claims program. Several respondents commented on the challenge of logistically co-mediating in a county that is very spread out geographically.

All of the other programs use a co-mediation model. The only times they do not employ two-person mediation teams is when scheduling or extenuating circumstances prevents doing so. In one program, workplace mediation uses a singular mediator. In another program, staff members often mediate alone but volunteer mediators work in pairs.
In all programs, selection of mediators for each case is done by staff members. One respondent commented that he would like to have volunteers do more than just mediate, such as case management, but he is not equipped to do so at this point. Mediator selection for each case varies, but it is based on a variety of common factors. Staff members assess each case individually and assign the most appropriate mediator based on availability, demographics (gender, age, race), experience, expertise, special training, willingness to go to certain locations, and the personality or style of the mediators. In addition, some staff members rely on a "gut feeling" about mediator suitability. Two programs mentioned equal opportunity as an important consideration.

Respondents were asked if there were particular mediators or a group of mediators selected for cases in which culture is an important factor. Three programs answered with a simple no. The rest of the responses were varied. Three respondents select mediators with more experience, training, and/or sensitivity to cultural issues. Two could not remember handling cases where culture was a factor. Seven respondents had bilingual individuals in mind. One program representative said that mediator selection would not be based on the fact that one of the parties is a minority. There would have to be other issues, such as a vocal family member or clear miscommunication. She believes that if you are true to the process, it does not matter who facilitates the process—in most cases. In other words, the process itself works for all cultures and so it does not matter who is mediating as long as that mediator is true to the process. Two others responded that they did not have bilingual volunteers or "cultural experts." Another respondent stated that her program matches mediators to reflect the ethnicity of the parties and tries to get a good pool of diverse mediators from which to choose.
Mediation Training

The following table indicates whether mediation training is provided, the number of training sessions, and how often training programs occur.

**TABLE 4.2: Oregon Community Mediation Programs Offering Training**

<table>
<thead>
<tr>
<th>Program</th>
<th>Training</th>
<th>Hours</th>
<th>How often</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beaverton CDRC</td>
<td>yes</td>
<td>44</td>
<td>1/year</td>
</tr>
<tr>
<td>Clackamas County Dispute Resolution, Marylhurst</td>
<td>yes</td>
<td>40</td>
<td>1-2/yr</td>
</tr>
<tr>
<td>Clackamas County Victim-Offender Mediation, OR City</td>
<td>1 in 96</td>
<td>on-the-job, 1-to-1</td>
<td>new- basic recvd elsewhere</td>
</tr>
<tr>
<td>CDRP of Deschutes County, Bend</td>
<td>yes*</td>
<td></td>
<td>1 so far</td>
</tr>
<tr>
<td>Community Outreach Inc., Mediation Services, Corvallis</td>
<td>no</td>
<td>40</td>
<td>not yet</td>
</tr>
<tr>
<td>Clackamas County Youth &amp; Family, Oregon City</td>
<td>yes</td>
<td>basic + 20 (don't provide basic)</td>
<td>2/year</td>
</tr>
<tr>
<td>Deschutes County Mediation Services, Bend</td>
<td>yes</td>
<td>32-36 + 6 court procedures</td>
<td>irregular; as needed</td>
</tr>
<tr>
<td>Douglas County Neighbor-to-Neighbor, Roseburg</td>
<td>yes</td>
<td>40 +20vo + 20pa+ 8lt</td>
<td>as needed, split w/court</td>
</tr>
<tr>
<td>Deschutes County Victim Offender, Bend</td>
<td>yes*</td>
<td>36</td>
<td>1 so far</td>
</tr>
<tr>
<td>Hillsboro DRP</td>
<td>yes*</td>
<td>32</td>
<td>np</td>
</tr>
<tr>
<td>Jackson County DRC, Medford</td>
<td>yes</td>
<td>36-40</td>
<td>1/year</td>
</tr>
<tr>
<td>Lane Community Mediation Services, Eugene</td>
<td>no*</td>
<td>32</td>
<td>1/quarter</td>
</tr>
<tr>
<td>Linn County VORP/MS, Albany</td>
<td>yes</td>
<td>36 + 8 program specific</td>
<td>1/year; peer med 5-6/year</td>
</tr>
<tr>
<td>Multnomah County East Metro Mediation, Gresham</td>
<td>yes</td>
<td>21tel-med+table</td>
<td>1/year</td>
</tr>
<tr>
<td>Multnomah Co. Neighborhood Mediation Center, Portland</td>
<td>yes*</td>
<td>40</td>
<td>no full training for 2 yrs because of $</td>
</tr>
<tr>
<td>Marion County Neighbor-to-Neighbor, Inc., Salem</td>
<td>yes</td>
<td>36</td>
<td>1/year</td>
</tr>
<tr>
<td>Multnomah Co. Resolutions NW, VORP, Portland</td>
<td>yes</td>
<td>32 + 3vo</td>
<td>1/year as needed</td>
</tr>
<tr>
<td>Multnomah Co. Resolutions NW, Youth &amp; Family, Portland</td>
<td>yes</td>
<td>peer med + 33</td>
<td>as needed</td>
</tr>
<tr>
<td>Polk VORP/CMS, Dallas</td>
<td>yes</td>
<td>32 + 20vo</td>
<td>1/year; vo 1/2yr</td>
</tr>
<tr>
<td>Yamhill County Mediators, Newberg</td>
<td>yes</td>
<td>32-35+ 20vo+21pa</td>
<td>1 every 2 yrs</td>
</tr>
</tbody>
</table>

vo = victim offender training  
pa = parent-adolescent training  
peer med = peer mediation training  
tel-med = telephone/individual mediation  
table = table mediation training  
lt = landlord-tenant
Pursuant to ORS 36.100 to 36.210, the Oregon Dispute Resolution Commission has the authority to set minimum qualifications and training requirements for entities that receive state funds to provide dispute resolution services. According to OAR Chapter 718, Division 20, the ODRC requires a minimum basic training of 30 hours, which must include three supervised role plays, evaluation of trainees, and two supervised mediations. Although the ODRC has established requirements and guidelines for volunteer mediators, there remains significant variation across programs beyond the minimum requirements. Many programs have additional requirements.

A majority of the programs pair new mediators with experienced mediators or with a mentor who evaluates and observes them. In one program, police officers who have received training in hostage negotiations serve as senior coaches. Three programs require that mediators observe mediation sessions prior to mediating. One program mandates that mediators perform two practice mediations while the coordinator of the program observes. Three programs require an interview prior to acceptance into the program and two require a criminal background check. One program dictates that their mediators do telephone mediation first before doing table mediation. Another program assigns volunteers with no prior mediation experience to small-claims mediation, cases which have a set schedule, are on-going, and easy to observe regularly. This same program stresses that its mediators observe for as long as is necessary to become comfortable.

Many of the programs ask for a minimum one-year commitment to the program and mediators are often considered an apprentice for six months to one year. Two programs require a certain number of volunteer hours per week or month. Additional requirements mentioned during interviews include attendance of workshops, office or case development
orientation, one major mediation association conference or advanced training of some kind, and agreement to the SPIDR (Society of Professional Dispute Resolution) ethical standards. One program is considering a continuing education requirement.

For people who have received their basic mediation training elsewhere, two programs mentioned a specific procedure for these mediators. One program provides a training waiver form that must be filled out by the new volunteer. The other program requires an abbreviated 16 hours of intercultural mediation training and role plays, regardless of what training has been received elsewhere. This is the same program that primarily services minorities.

Training and Culture

Issues related to culture are covered in the training sessions of all but two programs. Of the respondents from these two programs, one of them simply did not know if cultural issues were covered because the training was contracted out. The other respondent did not know because her program had not yet conducted any trainings. Of the programs that do cover issues related to culture in their training, about six expressed that culture was not a large segment of the training. Some program directors had difficulty identifying how much time was devoted to culture, because issues of culture and cultural sensitivity are interspersed throughout the training. When asked to estimate how much time was devoted to cultural training, three programs said one hour, four programs cited two to three hours, two programs included four hours, one program provided eight hours, and one program provided sixteen hours of training related to cultural issues.

Many respondents brought in outside resources to provide the training on culture. Volunteer mediators teach one program's entire training. Two respondents also mentioned
that socioeconomic, gender, and age issues were more pertinent than race and ethnic minority issues. Two other respondents believe you cannot get enough training on the issue of culture. There appears to be a difference in terms of priority and need. Based on the responses, it seemed that some individuals felt a degree of pressure to include more aspects of culture in their training, but that it was not necessarily something they themselves felt strongly ought to be part of the training.

Several programs either currently offer continuing education in cross-cultural communication, diversity training, and cross-cultural mediation challenges, or are planning on doing so. For example, one program has offered a four-part cross-cultural communication continuing education class. This course included one overall cross-cultural communication module, one Asian, one Spanish, and one Russian module. Each segment was approximately two hours. People from the Asian, Spanish, and Russian community were brought in, along with trainers specializing in communication.

At least two of the respondents meet with volunteers monthly to discuss important issues. Cultural issues and diversity are often discussed during these meetings. Several respondents felt that dealing with issues of culture was too difficult to include in basic training. Some new mediators have enough difficulty grasping the concept of mediation, let alone the cultural dimension.

When asked if any specific actions or behaviors were taught for handling cross-cultural disputes, the response was almost unanimous. Most training sessions are about awareness and sensitivity. Specifically, most training is designed to help mediators raise their comfort level in dealing with these types of disputes, to be able to name what they observe going on, and to ask questions and know that it is okay to do so. One respondent expressed it as an openness to signs; being able to recognize verbal and nonverbal signs that an
individual is uncomfortable. In addition to an awareness of other cultures, several respondents brought up the importance of becoming more self-aware. Their trainings teach mediators to understand their own biases and how to apply that to the mediation session. One program also teaches mediators that given the dynamics and structure of the process, some parts of the process may not work.

One program's training includes the general concept of culture and cultural differences. This program teaches the concept of difference and how to deal with it. Role plays are then used to pursue issues related to specific attributes of a particular culture.

A few programs are definitely planning on adding new or additional aspects of culture to their training curriculum, but most programs are simply considering it for the future. One program is adding an advanced training put on by a Portland group. The series will be a few hours a month for six to eight months. During this time, issues of gender, age, and cultural diversity will be explored. Another program hopes to add more continuing education with a focus on specific cultural attributes, but with a disclaimer about stereotypes. At this point in time they are more interested in developing resources of people to work with the program, rather than adding to the training. One respondent encourages his volunteers to take training from Workplace Mediation with Stan Sitnick and Jon Townsend in Portland, because he feels that this training fits best with his program. Another program has just begun to ask volunteers what they need. This program feels that they simply need more information. Contingent on what they find in the research process, they will add to their training. They would like to do more in their basic training directed to the populations they see in their particular community. Several others mentioned that they intend to add the necessary cultural elements as their program grows and culture becomes more of an issue.
Outreach to Community

The extent to which programs do outreach, marketing, publicity, and/or advertising fell into three groups. First, those programs connected to the courts or with a fixed, stable source of referrals did little or no outreach. Second, programs lacking sufficient funding and/or staffing were also unable to do significant outreach efforts. Part of this resource problem included having no infrastructure to support an increased caseload resulting from more outreach. One respondent expressed a reluctance to do outreach that makes assumptions about what the community wants. Their intention is to do appropriate research first and then determine what they can offer and what services will actually be used.

The third group represented those programs with the means to do outreach. The most common types of outreach methods included the following: brochures distributed to and available at key locations and organizations; networking and maintaining relationships with various organizations, especially city and county agencies; and presentations to local organizations and groups. Several respondents also considered their mediator trainings a significant part of outreach to the community. Other specific methods used by programs with more aggressive outreach efforts were flyers, bulk mailings, newsletters, videotapes, public service announcements, community chalkboard opportunities (informal citizen meetings), speakers bureaus, newspaper ads, articles, letters to the editor, community canvassing, public relations committees, web-sites, television and radio spots, and community fund-raising events.

The Community Dispute Resolution Center, Inc. (JCDRC) in Medford has the most comprehensive outreach program. An increase in staff within the past eighteen months has enabled JCDRC to expand its outreach efforts. JCDRC leaders believe you must be aggressive about outreach, because mediation is not well known enough for people to seek it
out on their own. Their concern is that too many people do not know JCDRC exists. JCDRC staff have completed their first public relations plan and first fund-raiser, a community holiday reception. As part of their plan they are doing press releases, letters to the editor, various mass-mailings, community chalkboard opportunities, pursuing time on local television and radio shows, and they are in the process of having a web site created. JCDRC staff and volunteers are also canvassing mobile home parks to meet individuals on a one-to-one basis. JCDRC also distributes two newsletters. One is an in-house newsletter for volunteers, staff, and board members. The other is a marketing tool distributed to those who might be interested in supporting or participating in mediation. Because community service clubs are busy and schedule events in advance, the JCDRC staff have also created a calendar of speaking opportunities that helps them be proactive about seeking presentation opportunities in advance.

**Targeting Minority Groups**

In addition to general community outreach was the question of whether programs targeted any particular groups in the community. Three programs with a distinct service emphasis named their audience as those groups implicit in the titles of their programs, for example, small claims, families, teens, parents, and victims. Fifteen programs stated that they do not target any particular groups, of which one cited a lack of resources to do so. In addition to the fifteen, one program directs its effort toward mobile home parks and landlord-tenants. Another focuses its attention on the Hispanic community. Yet another concentrates its energies on police officers and the sheriff’s department.
Beyond currently targeted groups, respondents were asked if they had any future plans to reach minority (or other) groups in the community. Ten programs do not. One program contributes this to a lack of staff and/or resources. Another program has no plans to target minority groups, but the respondent acknowledges the need to do a better job with the Latino community. One respondent felt that the word “target” was problematic. She tries not to use that word because she wants to make sure everyone knows about her program’s services. This program wants to make a concerted effort to reach all. It is not limited to anyone. Furthermore, although the program has brochures in Spanish, it has discovered that the distribution of these brochures is not the most effective way to get the word out. For the four court-connected programs that only receive court or juvenile department counselor referrals, this question was not applicable.

Two programs expressed the need for more research to determine what minority groups need and want. They do not want to encourage minorities to use their program if the services they provide are not culturally appropriate. These program representatives were uncertain if the services offered through their programs were useful to minority groups. If their mediation services are not useful, these respondents wanted to know how they could adapt their programs to make them more useful. Another respondent has plans to target minorities, but does not know the specifics yet of who or how.

Six respondents expressed an interest in making connections with Hispanic or Latino populations, but raised questions about the process, feasibility, practice, and method(s) of doing so. For example, one respondent stated that before moving forward, her program must know who will provide the service when minority group members call. Even though her program’s intentions are good, it does not have the staff or volunteers to back it up. On the other hand, her staff has a sensitivity to minority groups and are looking for practical
ways to encourage their use of mediation. Another respondent expressed concern over whether the Western mediation model works for minority groups. She was also concerned with whether or not she would be able to provide adequate service to these groups.

One respondent is trying to do more with the Hispanic population by establishing a relationship and by building connections with them. This respondent feels that several elements are needed to broaden their scope. Publicity is just one small part of it. She is talking with a local Hispanic program that teaches basic survival skills. The Hispanic program has done workshops for them and referred a few cases. This respondent's goal is to have Spanish-speaking volunteer mediators. The director of the Hispanic program has also expressed an interest in taking the mediation training.

Another respondent plans to target the Latino population. This respondent considers mediation an ancient concept, but it is fairly new in Anglo communities, at least the way it is used now. This respondent also feels that the Latino community does not really understand its use yet, and so outreach and exposure are necessary.

Respondents were asked whether any of their materials were in more than one language. Eight programs said no, or that this was not needed so far. Two programs plan to at some point, but they do not currently have any under way. One of these respondents would like to provide a brochure in Russian, but they are concerned that if you create it, you create expectations you may not be able to meet.

Three programs, Multnomah County Neighborhood Mediation Center (MCNMC), Douglas County Neighbor-to-neighbor, and the Hillsboro Dispute Resolution Center, were in the process of creating or translating brochures into Spanish. The MCNMC is working with the Metropolitan Human Relations Commission to figure out appropriate formats for the hearing impaired and different language brochures. The City of Portland's Asian
Refugee Coordinator works with all the Asian populations and is helping to identify what wording would make sense for certain cultures. They do not want to promise services they cannot provide, nor raise expectations if they do not have the staff who can communicate with these groups.

The remaining six programs have brochures in more than one language. Multnomah County East Metro Mediation has a brochure and sheet of suggestions in Spanish. Beaverton Community Dispute Resolution Center provides an index card and a full page description of the program, both in English and Spanish. The current program director, commented that old materials from her predecessor were in other languages, but that having those materials did not appear to result in any more cases during the time of her predecessor than they have currently without those materials. Polk VORP/CMS has a peer mediation book with materials in Spanish, Russian, Vietnamese, and English, plus a brochure in Spanish translated by a Hispanic teen as part of a restitution agreement. Neighbor-to-Neighbor, Inc. in Salem has two brochures in Spanish. CYFMP has a brochure in Spanish. Finally, Jackson County Dispute Resolution Center has brochures and a card, “Ten Steps to Resolving Conflict Peaceably” in both English and Spanish. It also recently provided an education training in Spanish.

Outreach for Volunteers

More noteworthy than the number of programs actively recruiting volunteer mediators are those programs who do not. One youth and family program does not have to recruit mediators because of the nature of its program. Selecting mediators is a specialty. Mediators have to be chosen very carefully. In peer mediation training, for example, adolescents that would make good mediators are targeted and observed for a year or two.
Instead of having a lot of mediators, this program wants just a few very competent ones. One of the victim offender programs also keeps a small mediator roster so that the director can know the mediators well and assign them to cases appropriately.

Two programs did not recruit mediators because they had a sufficient number of active mediations. Several programs reflected that their big recruiting effort for volunteer mediators occurred when their programs began, or within the last two years. Consequently, recruitment was now minimal.

Programs get their volunteers in various ways. One director jokingly said his program gets its volunteers, “by hook or by crook,” referring to the challenge of attracting volunteers. In his experience certain geographic locations were harder than others to recruit volunteers. Areas like Madras and Prineville, for example, seemed to have more farm and ranch workers with less time to be able to volunteer. Bend, on the other hand, had a higher number of retired individuals able to give their time. Difficulty in getting volunteers was not necessarily expressed by all or even most of the respondents, but the question of “how difficult was it to attract volunteers?” was also not asked.

Most programs maintain a list of potential volunteers or individuals who have heard about the program through word of mouth or some other source and would like to volunteer. The three most common ways to get volunteers included offering mediation training, newspaper and other advertisements, and word of mouth. Several individuals mentioned getting volunteers who had been involved and/or trained in other programs. Two programs cited their network with local universities. Located in the police department, the Hillsboro Dispute Resolution program recruits half of their volunteers from law enforcement personnel. The other half comes from citizen recruits.
Although methods for recruiting volunteers were quite similar, it was evident that the extent to which programs recruit varied significantly. One program stated that recruiting volunteers was their biggest outreach activity.

Of those programs asked, at least eight have actively recruited in minority communities. A few of the mediation programs interviewed are part of a larger organization or agency that has bilingual individuals or services that can be drawn upon when necessary.

Four programs do not feel they have been very successful in recruiting minority volunteers. One such program has been trying to recruit in the Spanish-speaking community, but has experienced difficulty because they have so few Spanish-speaking staff. They also question whether there is enough interest in those communities and if there are individuals available to make it work.

One of the methods used to recruit in minority communities was a training announcement calling for bilingual mediators placed in the local Hispanic newspaper. Another program placed an ad in the Asian Reporter and on a Spanish radio station. Through the Catholic Church, one respondent learned about an advocacy group in the Hispanic community. The respondent contacted the organization with a phone call and a letter. Using the same tactic of a phone call and a letter, this respondent also contacted some other minority groups. He later discovered that his approach may have been culturally inappropriate. He learned that sometimes contact needs to be slower and in-person, not by letter.

**Mediation and Ethnic Minorities**

To address the area of mediation programs’ responsiveness to ethnic minorities, program representative were asked: “What happens if you discover the case involves a
minority group? Would that change the way you approach the process?” Some respondents indicated that there would be no effect—the mediation approach would not change. Although some respondents noted that they would modify the process if there was a language barrier, in which case an interpreter would be sought. For one program, the translator would be asked to get involved early in the process to make the initial phone connection and then be present for the mediation itself. Additionally, one respondent meets with the interpreter beforehand to find out what to expect and to learn of any special cultural considerations. After the mediation, the respondent also meets with the interpreter to hear his or her perspective about how the mediation went.

Several respondents mentioned that there have been instances when they do not know in advance that culture or language is going to be an issue. In one case the person interviewed during the information gathering stage was not the person who appeared for mediation. Another respondent remembered an instance when the case fell apart and the mediators had to start all over again right in the middle of mediation. This happened because the mediators discovered that the case was not about the issues they had initially identified. In dealing with Hispanic parties, this same respondent found that asking them to sign a written agreement was insulting, perhaps due to a mistrust of written contracts. It took some explaining on the part of the respondent to get the parties to understand why a written agreement was necessary. The mediators from this program share these experiences with each other to be more culturally sensitive, but the process stays them same. The respondent qualified this by saying that they may caucus more under those circumstances.

Another group of respondents felt that part of the process includes paying attention to all that is going on and making the necessary adjustments when appropriate. For them, changes depend on the people involved and what they want. Several respondents directly
ask the parties what they need, want, or expect. As one respondent put it, “It’s their process. We teach the standard model, but in practice we come together and sit around a table where each person tells what they want.” This respondent explained further that if a disputant, such as an adolescent, shuts down or becomes very angry, the mediator will caucus right away. Mediators take time to talk about the process and get information, but the process is adapted to the people and the situation. Another respondent who works with adolescents stated that she makes a concerted effort to define terms to avoid misunderstandings. She tries not to impose her own definitions for terms and provides opportunities for the disputants to explain what they mean by particular words and phrases. Before and during mediation she also continues to ask herself whether the process needs to be adapted, and if so, how?

One respondent expressed that he has done mediation where culture was a factor, but he was not happy with the way it was done. He feels that there are serious problems with the mediation model. He made it work but adapted it as much as possible. He feels it is a Western-European, white, patriarchal, legalistic model that does not fit all cultures. Voicing a similar concern, one respondent is aware that the process is a problem for some people. He is sensitive to that and acknowledges it, but he does not do anything about it. He simply tells the party this is how it is done.

For cases where there is a language barrier, several programs have access to professional interpreters or services through the court or other organizations. Those without interpreters readily available said they would find someone. In some cases this
means asking the parties to bring a friend or relative to interpret. For one victim offender
program representative this is problematic if the child is the offender and is also bilingual.
In those situations he tries not to put the offender in a situation where he or she is
translating for their family members.

Several programs either have bilingual volunteers or staff members or are trying to
recruit them. One program with a few bilingual volunteers and some bilingual resources
available to them do not always have bilingual people available to take the initial phone call.
Two other respondents stated, however, that their programs rarely receive the initial contact
from a minority group. Most of the cases involving someone from another culture are
initiated by native English speakers.

Only one respondent discussed the effect of a language barrier on the process. This
respondent felt that it was debatable whether using a bilingual mediator was a good choice.
She felt that there was no debate about the benefits of having bicultural mediators, but
questioned whether mediators should interpret as well. Her major concern was whether
interpreting could pull the mediator out of perceived neutrality. She also acknowledged that
some cultures have a very different definition of mediation to begin with, something very
different from what her program does. Knowing and understanding the differences would
affect how her program would train its mediators, would select mediators, would try to get
into those communities, would choose what type of publicity it would use (whether word of
mouth or direct contact), and how it might educate individuals from those communities.

Respondents were asked what they feel is the biggest challenge their program faces
concerning culture and minorities. The most common issue was informing minorities about
services, getting the word out, and doing outreach. The second part of that issue was getting
those groups to actually use their services. As one respondent put it, “They don’t know
about us and if they do, they're not using us for some reason.” Another respondent mentioned that his program does not have any mediators with diverse ethnic backgrounds and feels they need to get minority mediators and volunteers to help break down barriers.

One program's biggest challenge is funding to do more, especially in the area of outreach. Another program feels that it does not have the language resources needed. Three other programs feel that they are dealing with a homogeneous population and until that changes, they will have limited exposure to issues related to minorities. Two programs expressed a concern over mediation training in the area of culture, but one of these respondents felt that it simply was not a priority at this time.

Another program wants the Hispanic community to be more comfortable with the mediation process. Even though the Hispanic community may not feel comfortable taking their problems to outsiders, this respondent wants to communicate to the Hispanic community that mediation is a safe environment and that they can come and use the program's services.

From a slightly different perspective, four respondents expressed concern about the process itself. For example, one respondent stated that the process is about equalizing power by giving people the opportunity to speak on behalf of themselves. This is a Western/Anglo process that assumes people can and want to speak on their own behalf and that the playing field is equal. This is not the case in all cultures. In some cultures women or the young are not allowed to speak, or family members are taught not to take concerns outside the family. The biggest challenge this program faces is trying to accommodate those issues, which is why this respondent felt training was so important.
Another respondent with concerns about the process felt it was important to look at how ethnic groups approach conflict, and how that corresponds to the traditional mediation approach. She felt that working with the Hispanic population is a big project. First, individuals from their program need to get together with people from within the Hispanic culture and develop an understanding of how they approach conflict. Finding out how to talk about conflict and mediation and finding out if the process makes any sense to them is the first step.

For another program, the biggest challenge is getting the necessary information to make an informed decision about how to reach more people. A third respondent expressed concern over the applicability of the mediation model in any of the minority communities, especially the Hispanic community. He was uncertain whether mediation was appropriate under those circumstances. This respondent also raised a second issue. In light of concerns about the mediation process and concerns about the availability of language services, he is reluctant to encourage minority group members to use the program. His sentiment is that if the program attempts to serve a particular group but serves them badly, then perhaps his program is better off not serving them at all.

Beyond the issue of culture, respondents were asked what in general was the biggest challenge their program faced, and what was their biggest hope for the future. Program stability, funding, and staffing were mentioned by several respondents. Several other respondents faced program-specific challenges. For example, one program felt it was moving from a "mom and pop operation" and was not exactly sure how it was going to get from "here to there," especially in regards to housing, funding, and how the board and staff functions.
Another program faced similar struggles. The staff were all very new and the program had experienced a high turnover rate. When this respondent joined, there were no materials and she had to start from “ground zero”. There was a lot of turmoil when this respondent came on board. With the help of volunteers, the staff designed a case development system in which volunteers could participate, but the system did not work, so they had to redesign it. In regards to the prioritizing of issues, the respondent said frankly, “If it’s not in our face, we don’t deal with it.”

One program would like to be able to do serious violent offenses as part of the victim offender program. The challenge for a youth and family program is recruiting teens. By the time teens are old enough and mature enough to mediate, they are only available for a few years before they move on. Unlike some other programs, their mediators are constantly coming and going. For a court connected victim offender program, the challenge is getting counselors to see mediation as a first option and not as a third option. The hope is for their program to be viewed not as an add-on, but as something significant and a good way to handle cases.

Several respondents expressed the desire to have more people in general knowing what mediation is, and readily choosing it as an option. In addition, several respondents would like to have a more diverse group of mediators and clients using their services. One respondent asked the question of whether mediation as an alternative would be utilized equally by all cultures if there was a proportionate number of minorities in the community. She also questioned whether or not outreach in minority communities was actually paying off and working. This respondent was trying to understand if the reason so few minorities were using mediation had more to do with outreach or it was related to some other issue. Several respondents expressed this type of concern, but no one seemed to have any answers.
CHAPTER 5
DISCUSSION

The focus of this research project was to discover how responsive community mediation programs in the State of Oregon are to the issues of culture and ethnicity. A general understanding of the current mediation programs was established using personal and telephone interviews with program administrators. This information provided a way to contrast the normal procedures of the mediation programs with their attempts to accommodate diversity. This chapter reports the findings of program responsiveness to culture and ethnicity and associated issues concerning viability and application of goals to be culturally appropriate. In addition, this chapter presents outreach, training, other general findings, and related recommendations. Finally, this chapter reports the limitations of this study followed by some reflections on the research process.

Responsiveness to Culture and Ethnicity

With the exception of one program, minority groups do not heavily utilize Oregon community mediation opportunities. Several respondents speculated on the reason for this. One person observed that minority representation is no different than what is occurring in other state and county agencies. Others believe that the number of people using their services is proportionate to the demographic makeup of the community. In other words, they claim to service a very homogeneous community with very few minorities.
Many programs are concerned about reaching out to minority populations, but have simply been unsuccessful. They do not know how to be more effective in their efforts to reach and provide for these groups. There are also those programs that do not consider minority groups a priority, primarily because they have too many other more pressing concerns.

It is unclear why minorities are not using community mediation services, but the one program that is used by minority groups reveals some factors to consider. The interview with the interim director of this program reveals three characteristics that are likely to influence why this program primarily services minority groups when other programs have difficulty attracting minority populations. The first factor is that the program is positioned in the middle of a diverse community. The majority of residents in this community are African American. The second factor is that the building itself is centrally located, very visible and very accessible to the neighborhood. Although the center intends to move, they have decided that because the location is such an important factor, they will not move far from the existing site. The third factor is that the staff and volunteers are predominantly non-white.

Interestingly enough, this program does very little outreach. Minority group use of its services stem from other factors. A strong network of referral agencies and the program’s long history in the community play a significant role. The program serves the African American community, but research does not indicate what other groups are also using its services. Further inquiry into this program would be very valuable and insightful.

The issue of minority group use of community mediation raises many important questions. Is the mediation process appropriate for these communities? Do community mediation programs need to adapt the process to accommodate these groups? Where does
the responsibility of programs to accommodate these groups begin and where does it end? Is there a minimum that programs should do? What potential for success do programs have in order to meet minority communities’ needs? How can one determine what is appropriate and what is not? When dealing with cross-cultural disputes, can both cultures be accommodated? If so, how?

Generally speaking, people prefer not to want mediation; doing so indicates they are involved in a dispute they cannot resolve without help. Although minority groups may not be using mediation, mediation may appear somewhat foreign to mainstream Northern American culture as well. Pearson, et al (1982) report, for example, that a study done by Felstiner and Williams (1979), “underscores the fact that mediation is alien to the vast majority of disputants, and despite all the professional enthusiasm for the process, we can expect little use of institutionalized mediation until it becomes a known commodity” (p. 31). Mediation has become more visible since 1979, but getting people from even mainstream North American to use mediation remains challenging. People need to learn that mediation is a viable alternative; that it really works. In other words, members of both dominant and minority culture communities may be somewhat resistant to mediation, even if for different reasons.

What are reasons for this resistance to the use of mediation? For the majority of Americans, mediation is simply an unknown alternative. They are not very familiar with the process and most likely do not know about services within their own community. Resistance may also stem from American society’s emphasis on an adversarial win-lose oriented legal system. It is difficult to change from adversarial thinking to collaborative thinking.
The challenge for getting minority groups to use mediation may have more to do with the process itself than unfamiliarity with mediation. In fact, many minorities come from cultures where mediation is a common formal or informal approach to handling conflict (Augsburger, 1992). For example, the Navahos of the Navaho Nation in Arizona, New Mexico, and Utah have practiced their own justice methods for centuries, but Navaho “mediation” and “arbitration” are not what others understand them to be (Bluehouse & Zion, 1993). In China, mediation can be traced to Confucian roots (Cohen, 1966) and continues to be a prominent part of modern Chinese society (Wall, 1993). The concept of mediation may not be foreign, but the way that it is used in the United States might be.

If that is the case, should minority groups be encouraged to use mediation even if they may be uncertain about or uncomfortable with it? Should anyone use mediation while having doubts about it? Mediation represents a choice among dispute resolution alternatives. About any minority group, one can ask—what methods are preferable for settling disputes? What methods do they use currently to resolve conflict? If there are methods that work, then mediation may not be the best alternative. On the other hand, if particular minority groups do not have any other alternative besides the legal system, there may be real value in promoting and encouraging the use of mediation. The legal system may be insensitive to their cultural concerns. Mediation is also a better alternative than violence, unbearable living conditions, or being taken advantage of by others with more power. Mediation can provide an affordable option to those who do not have access or have trouble maneuvering within the current system because of resources, language barriers, or other factors. But first, members of minority communities need to learn about mediation and see it as a viable path.
Ignoring minority populations is not an option. Mediation programs can respond to this need in a variety of ways. One approach is to use the exact same mediation process for everyone, but make a special effort to educate minority groups about mediation. Using this approach, programs can look for inroads into these communities, building relationships and trust so that minorities feel comfortable with mediation as an alternative. Programatically, this approach may be the most practical and most feasible for encouraging minority use of mediation. On the other hand, mediation under these circumstances may be unsatisfactory and unsuccessful. If the process is unacceptable to the parties, the ability to achieve long-lasting results may be jeopardized. Simply getting minority groups to use mediation is not necessarily an indicator of successful mediation. Success should be determined by the results of mediation.

Another approach is to make the mediation process more culturally appropriate. While both Westerners and minority groups may be somewhat reluctant to use mediation, many minority groups have fundamental cultural clashes with the process. Mediation as practiced here in the U.S. is based on mainstream North American values. As discussed in Chapter Two, the Western orientation to conflict is fundamentally different from many other cultures. While the Western view of conflict promulgates a direct approach to conflict, many other cultures prefer an indirect approach. If mediation is based on dealing with conflict directly, then this can present some serious problems for some cultures. While mainstream North Americans may not be completely familiar or comfortable with mediation, at least for the most part the underlying principles and values do not clash with their culture.
Adapting the process presents challenges. With such a wide range of cultures, subcultures, and diversity issues, adapting the mediation process is a complicated task. Identifying cultural differences is one very big obstacle; while another is developing an acceptable means for adapting the process under clearly defined circumstances. There is no simple formula for doing so and should not be. Still, while the conventional mediation process may not work in all circumstances, radical abandonment of the process creates a whole new dilemma for mediation as a profession. There must be some degree of continuity and standardization of mediation practices, both for training purposes and to maintain standards that protect all parties involved.

Another key question is, “to what extent are mediators willing to push the boundaries of mediation as we know it in order to be culturally appropriate?” For example, how receptive would a mediator be to go to the home of an adult disputant and meet with his or her parents? How receptive would a mediator be to put pressure on an individual to cooperate? How receptive would a mediator be to allow a parent to speak on behalf of his or her adolescent child? How receptive would a mediator be to allow the entire family to participate in mediation? How receptive would a mediator be to an ongoing process that focused on relationship rather than outcome? How receptive would a mediator be to a scenario where a woman is not permitted to speak? These questions challenge our current views of mediation and reveal underlying values about mediation and our culture.

When adapting the mediation process to be culturally appropriate, mediators need to be prepared to set aside or modify personal core values, or acknowledge their unwillingness to do so. Adapting the mediation process to be culturally sensitive or culturally appropriate requires careful consideration. Part of learning a new culture is suspending or re-evaluating all the rules that previously governed behavior and interaction. Learning about a new culture
demands learning a new set of rules. For example, the issue of neutrality is very important to the Western view of mediation. While neutrality is considered essential and non-negotiable in the United States, such may not be the case in other cultures (Gunning, 1995). In a study about community mediation in China, Wall (1991) found that mediators in China tend to “preach” to disputants about what they should or should not be doing. In a separate study comparing community mediation in China and Korea, Wall (1993) reported Chinese mediators to be less neutral than Korean mediators. A mediation technique used by both Chinese and Korean mediators was the act of seeking apologies from disputants. These findings raise questions about the notion of neutrality in other countries. Neutrality is a core value that may be difficult for a mediator to set aside in an effort to be more culturally appropriate.

Still, adapting the mediation process to other cultures does not have to be dramatic. A mediator can make small adaptations to the process. Moore (1996) claims that the “world can be divided into direct-dealing and nondirect-dealing cultures” (p. 32). The Western view of conflict management is very direct and comes with a corresponding group of strategies and tactics. The indirect approach to handling conflict also has its own set of strategies and tactics. From a Western perspective, the indirect approach is often considered negative, inefficient, unproductive, and ineffective. The assumption is that the “nondirect-dealing” individuals either have a lack of courage to confront, are unwilling to deal with the issue, have a lack of commitment to solve the problem, refuse to take responsibility for actions, or simply have a lack of concern for the other person. Some of the potential reasons for indirectness might be to save face, foster harmony, or an emphasis on long-term versus
short term gain. Indirectness may also be a learned behavior passed down from one
generation to another. An indirect approach to conflict is simply a different approach,
legitimate in its own right. Inaction, silence, or the use of stories and proverbs can be very
effective indirect methods for handling conflict (Elmer, 1993).

Applying Cultural Variables

Ting-Toomey (1994) provides some suggestions for both individualistic and
collectivistic cultures in adapting behavior in conflict situations. First, individualists must
remember that collectivists see their actions as connected to the in-group. Collectivists take
the in-group into consideration when managing conflict. Second, individualists should try to
deal with the conflict when it is small instead of letting it become a larger issue, recognizing
that the collectivist may want to use a third party to mediate the conflict. Third, the
individualist needs to avoid embarrassing or criticizing in public to help collectivists maintain
their public image or face. Fourth, individualists need to pay close attention to implicit
messages and nonverbal behaviors. Fifth, individualists need to listen actively when
collectivists talk. Sixth, individualists need to try using more indirect messages. Avoid
saying no bluntly and use more qualifiers (maybe, it seems, etc.). Seventh, individualists need
to be prepared to let some conflicts go. The collectivist may not be prepared to deal with
the problem and may prefer to avoid the issue.

Collectivists need to be reminded that individualists often separate the person from
the conflict. Collectivists should try not to take the conflict personally. Second, collectivists
need to focus on the substantive issues of the conflict. Third, in dealing with conflict
situations, collectivists need to try to be more assertive in their approach. Fourth,
collectivists need to be more direct when responding to individualists. Fifth, collectivists need to make a greater effort to focus on the verbal messages. Sixth, collectivists need to remember that individualists do not value silence. Seventh, collectivists need to make an effort to deal with conflicts when they arise and not avoid them.

Gudykunst (1991) also provides advice for dealing with persons from a different culture. First, he recommends taking into consideration the other person’s group membership. Identifying individuals from collectivist cultures, for example, can alert you to how the other person might prefer to handle the conflict situation. Gudykunst’s (1991) second piece of advice is to consider your expectations for the other person and be careful about how your expectations affect the way you interpret the message. It is important to set aside group-based expectations based on stereotypes, ethnocentrism, and prejudice to understand real group differences.

Hall (1977), Hofstede (1980), and Ting-Toomey (1985, 1988), among others, have contributed significantly to the body of research concerning culture, face, and conflict. However, as Spitzberg (1991) points out, “virtually any piece of advice, when carried to extremes, tends to lose its functional value” (p. 264). Gudykunst (1991) further illustrates this point by saying that “in a conflict situation, it is important to be aware of potential cultural or ethnic differences in the approach to conflict, but the focus in resolving the conflict has to be on being mindful of our communication and dealing with the other person as an individual” (p. 200). The concepts presented in this chapter must not be used to the exclusion of other important considerations. These concepts help to broaden our perspective and expand available approaches to various circumstances and cultures, but there are no easy answers that can be applied across the board. Each person and every situation is unique.
Gudykunst (1991) also makes another important point: “Although it is important to recognize differences, it also is important to go beyond looking at differences. To do so and develop close relationships with members of other cultures or ethnic groups, we must talk with them and discover that we are similar in other areas” (p. 214). Individuals should not simply look for differences in others, but similarities as well.

Many programs are trying to learn how to be more responsive to issues of culture and ethnicity. Two programs in particular are in the process of doing research to figure out what they should be doing, what is effective, and what minority groups need and want. This effort could be strengthened via a partnership with universities. Universities and mediation programs could work together and learn from each other. A mediation program–university research partnership could provide necessary research staff (e.g., graduate students and grant funding. Some programs are located in close proximity to universities and colleges. These schools represent a wealth of untapped resources. Universities provide an ideal location for presentations to faculty, staff, and students. Students are eager for internships and opportunities to get experience. As an undergraduate and now as a graduate student, I have taken many conflict management classes from Oregon State University. I know that there are many students who would get involved in community mediation if they knew about such opportunities. They also have access to many university resources not available to anyone else. Establishing and maintaining a relationship with professors is one way to keep the communication line between community mediation programs and students open. Professors, both retired and employed, also have expertise that programs can and should draw on.
Universities and community colleges with or without on-campus mediation programs could also link up with community programs to benefit both parties. University of Oregon has a well-developed mediation program on campus, but Oregon State University on the other hand, does not. The kinds of opportunities for the programs in these areas would vary, but they exist. There are many other potential opportunities for those willing to be creative and proactive.

**Outreach**

Although most programs do some sort of outreach, there was a big discrepancy between how much and how consistently it was being done. The difference seems to be between those programs that are able to be proactive versus those that are operating reactively. Quite a few programs acknowledge that they should be doing more outreach and would like to do so, but are hampered by a lack of resources—primarily staffing, money, and time. The court-connected programs seem to do the very least amount of outreach. This did not seem to be related to whether they were proactive or not. Receiving a relatively steady flow of cases from one primary source seemed to affect the need for doing publicity.

It became apparent during the interviews that there were potentially two types of outreach. One type of outreach focused on community members who might use the services or refer others to it. The other type of outreach sought out community members who might be willing to volunteer their time. Initially I had been interested in finding out what, if any, outreach was directed toward minority groups. When I discovered the two types of outreach I realized that it would be important to know if outreach was also being done to recruit volunteers from the various minority communities as well. This series of questions was added to the last half of the interviews.
It is interesting to note that the program with extensive use by one minority group does very little outreach. This suggests that outreach is not necessarily the solution to minority participation in mediation. Programs doing a concerted outreach to minority communities have experienced little change in the extent to which minorities used their services. This suggests that reaching the minority population might well require new methods of outreach that are specific to those communities. Current outreach methods do not seem to be effective. This also raises the question of whether a program without the ability or interest in reaching out to minority groups in a way that is effective and appropriate, should be encouraged to do so.

Programs would like to have a diverse group of staff, volunteers, and board members. Individuals from diverse backgrounds may be more likely to have access and influence among the diverse groups with whom they associate, giving them opportunities to speak to these groups and talk to individuals one on one about the benefits of mediation. Word of mouth is an effective outreach tool, and may be especially appropriate in minority communities and among groups with oral traditions.

**Language and Interpretation**

Some programs seek individuals from various minority communities in order to overcome language and cultural barriers that may arise. Having volunteers on staff who speak Spanish, for instance, has a significant impact on the types of cases that can be handled, the extent to which outreach can be carried out, and the efficacy of responding to cases in a timely manner. Although respondents were not asked explicitly whether their
volunteers mediate and translate at the same time, some stated that they do. It is important to note, however, that careful consideration must be taken when using a single volunteer to both mediate and translate. The implications for mediating and translating at the same time are worth deliberating over.

Using interpreters in mediation receives very little attention in academic literature. Dominguez-Urban (1997) provides a valuable discussion of interpretation as a whole in, "The Messenger as the Medium of Communication: The Use of Interpreters in Mediation." She presents aspects of interpreting and mediation that are both thought provoking and practical, making it an article that should be read by all mediation practitioners. Dominguez-Urban's initial exposure to interpreting came as an informal interpreter for immigrant parents. Later as a lawyer and then professor of law, Dominguez-Urban received numerous requests to interpret for clients. This lead to opportunities to interpret and mediate, exposing her to critical concerns related to doing so.

Dominguez-Urban (1997) notes that under The Americans with Disabilities Act (ADA) and §504 of the Rehabilitation Act of 1973, public and private mediation services may be required to provide sign language interpreters or other "auxiliary services." With increasing regulations and the need for foreign language translation, mediators should understand the interpretation process, especially in light of the fact that a mediator's primary job is to facilitate communication. Her second premise is that one of the most "widely held and denounced preconceptions" is that any bilingual person can be an effective interpreter (p. 20).

Interpretation and translation are often used interchangeably, but proper understanding of these terms is important. Interpretation is the "unrehearsed transmitting of a spoken or signed message from one language to another" (Hewitt, 1995, p. 11).
Translation typically means, "converting written text from one language into written text in another language" (cited in 42 U.S.C. § 12101, 1994). Because of the nature of mediation, what normally takes place in that setting is interpreting. There are three basic modes of interpreting: simultaneous, consecutive, and summary. Simultaneous interpreting is continuous with only a slight time lag between the speakers' words and the interpretation of them. It occurs while the speaker is talking. Consecutive interpreting occurs during the speaker's pauses. Disfavored in formal interpretation settings, summary interpreting is providing the gist of a speaker's message.

Dominguez-Urban describes the advantages and disadvantages of the first two modes. Consecutive interpreting is more accurate, but is considerably more time-consuming. This method provides the interpreter with more control over the process, allowing them to make changes, respond to the audience and their understanding of the material. It is also very taxing on the memory of the interpreter. The time that it takes to interpret can also lead to increased frustration between the parties, which in turn can affect their ability to reach an agreement. Simultaneous interpreting is much faster, but the parties cannot watch and listen to the speaker and interpreter at the same time. The parties must focus on the interpreter alone and may miss important non-verbal clues given by the speaker. In these situations, the interpreter may need to have the added burden of communicating both the specific verbal message and the demeanor of the speaker as well. It may also be difficult to find an interpreter who is capable of listening and interpreting at the same time. This may not be as true for sign language interpretations as it is for foreign language. Selecting the best mode should be consistent with the seriousness of the issue and the extent to which accuracy is important.
Regardless of the interpretation style, Dominguez-Urban asserts that mediators need to speak to the parties, not to the interpreter. Mediators should also avoid speaking in third-person (he, she, they). The mediation will take longer than normal, so proper time needs to be set aside and more breaks scheduled. When possible mediators should do advance planning to avoid delays. Advance preparation by learning about the cultural backgrounds of the parties and planning with the interpreter can limit some delays caused by explanations, corrections, and clarifications. A qualified interpreter is the best method for an effective and efficient mediation session.

Dominguez-Urban acknowledges that qualified interpreters are expensive and difficult to find. This leads many mediators to find friends, relatives, and other ad hoc interpreters. In some cases, bilingual mediators decide to interpret and mediate the case themselves. She states several reasons why this practice should be avoided. First, in some cases this may have legal implications. The other concern is whether the individual is really qualified. Interpreting is very strenuous. It is a task that requires significant cognitive and linguistic ability. She claims that being bilingual, “does not qualify a person to interpret any more than the ability to type qualifies a person to be a stenographer” (p. 18). Ad hoc interpreters, without proper training, may be more inclined to add or subtract from the message. They may also represent a confidentiality or liability issue.

Using bilingual mediators to both mediate and interpret raises several concerns. One is that the mediator’s concentration is split between tasks and is not focused on the parties. The mediator may be caught in rapid and heated discussions, where it is virtually impossible to keep up with both interpreting and enforcing ground rules at the same time. Pejorative comments made by the parties could also put the mediator/interpreter in a very
uncomfortable position. Interacting with the party using a foreign language could also give rise to suspicion that the mediator is no longer neutral. The other important issue is whether the bilingual mediator actually has the necessary skills to interpret effectively.

Dominguez-Urban makes some suggestions for selecting and preparing for interpretation. The first suggestion recognizes that speaking the same language does not mean the interpreter and disputant will understand each other. Languages like Chinese and Spanish have many different dialects, some of which are mutually unintelligible. Knowing the language generally may not be sufficient, dialect competence may be required. Besides ensuring that interpreter speaks the same dialect, it is important if at all possible that the interpreter not be affiliated with the parties and able to maintain neutrality and confidentiality. Mediators need to know before the day of the mediation that the interpreter is fully qualified to interpret.

There are several important issues to discuss with the interpreter beforehand. Interpreters should be educated on how the mediation process works. It is important to determine what mode of interpreting will be used, whether or not the interpreter will convey the speaker’s style and demeanor, and how foul language, stereotypes, and racial slurs will be handled. Other procedural issues that will need clarification are how to handle interruptions and interjections and whether or not the interpreter will interrupt when there is potential for miscommunication based on the word or phrase being used. Interrupting to correct miscommunication requires a more active role on the part of the interpreter. If the interpreter is going to have a significant role, he or she should have some sort of mediation training. Logistically, the mediator needs to consider seating arrangements. Where the mediator and interpreter sit can have an impact on perceived neutrality. It is also important that the parties are able to see and hear both the mediator and interpreter.
In preparing and conducting the meeting, Dominguez-Urban cautions mediators to choose their words carefully, particularly in their opening statements. If possible, provide the interpreter with a copy of the introduction in advance. After the introduction, mediators should make a point to ask the parties if they understand. Mediators should use ordinary English and take special care to avoid expressions that are difficult to translate. Avoid culturally laden references, archaic language, sports analogies, and colloquialisms. Mediators should make a point of asking speakers to clarify any expressions that might be unfamiliar to others and they should encourage the parties to seek clarification when they do not understand something. Avoid questions that are answered with a yes/no and long explanations followed by a question like, “Do you understand?” Yes/no answers may not really reflect the party’s thoughts. The parties may be responding to nonverbal cues of how they think they are expected to answer. They may also fear that their lack of understanding will reflect negatively on them or offend the speaker. They may also be agreeing in deference to the authority figure.

Mediators should also be sensitive to body language and the contradictory meanings that particular behaviors may hold across cultures. For example, a lack of eye contact may be a sign of respect for authority in one culture, while a sign of dishonesty or shiftiness in American culture. The mediator will also want to be aware of his or her own body language. Mediators might reconsider the use of a handshake, for example, and be especially conscientious about any physical contact like patting someone on the back. As with any mediation situation, good communication techniques need to be exercised. Using concise ordinary English and asking questions that allow the listeners to demonstrate that they have understood helps minimize miscommunication.
Dominguez-Urban also provides a very insightful discussion on issues to anticipate. Mediators need to anticipate both the biases of the parties as well as the mediator's own emotional responses to these biases. English speakers may be impatient and intolerant of others who need interpretive assistance or harbor resentment about the party's immigrant status or inability to lip-read. Parties and mediators might find themselves with negative feelings toward the interpreter who is also a member of a minority group. Mediators may also be surprised to find that the interpreter who they expected would feel protective towards the party, actually feels animosity towards them for using a particular dialect. Despite being able to speak the same language, there may be tension stemming from racial or ethnic origins. Mediators may also find themselves protective or sympathetic toward the perceived "underdog" or party needing assistance. Conversely, mediators need to be aware of their own feelings of frustration, impatience, or hostility towards the party needing translation. When there are biases and prejudices between parties, the mediator needs to consider how he or she will respond and whether to address them. The mediator's response to the situation may provoke charges from one party that she or he is biased. Another issue mediators could find themselves faced with is an English-speaking party accusing the other party of being able to speak English and not really needing interpretation. Dominguez-Urban recommends addressing the issue of interpretation in the beginning, but not getting drawn into the controversy. Doing so could jeopardize the mediator's perceived neutrality.

What Dominguez-Urban's article demonstrates is that language barriers in mediation present their own set of important considerations. Community mediation program administrators, coordinators, and mediators need to consider these issues when selecting
interpreters, preparing for and conducting mediation. Some programs may need to reconsider policies and procedures currently in place to handle language issues. Mediator trainings are an ideal opportunity for addressing these concerns.

Training

Although evaluating the effectiveness of training programs was beyond the scope of this research, through the interviews I was able to get a sense of how important each program views issues of culture. The priority placed on culture seemed to be a good indicator of the extent to which culture was likely taught as part of the training. Some individuals seemed to reveal a fairly limiting view of culture. Although very subtle, respondents' comments suggested that their understanding of cultural issues varied significantly. With the exception of one or two programs, the issue of culture seemed supplemental and not central to training. Culture was generally taught as an add-on or continuing education segment. Based on a lack of concrete feedback about training and culture, respondents appeared to be least familiar with training content related to culture.

Another observation was that very few trainings appeared to explicitly link cultural knowledge to the mediation process. The use of role plays to connect cultural issues to mediation emerged as the most common method for doing so. Most trainings were characterized as cultural awareness, cultural sensitivity, prejudice reduction or diversity training.

Mediator training is a critical component for every program. Mediation training prepares community members to mediate. With growing concern over mediator competency and standardization, the role of training becomes even more consequential.
Having qualified mediators is important, because it establishes continuity within and between programs in terms of the quality of services being provided. Training is also a primary vehicle for developing culturally competent mediators. If directors, coordinators, and boards are unaware of the extent to which culture permeates every interaction, this affects the entire program. Trainings may not devote sufficient time to the issue. Volunteers will have less exposure to cultural concerns and less encouragement to pursue competence in this area.

An important aspect of designing a training program is to recognize that what is being taught in training is cultural. Lederach (1995) states the "conflict resolution training in the dominant North American culture represents among other things the packaging, presentation, and selling of social knowledge. Whose knowledge, under what package, delivered through what mechanism, and received by what populations are all legitimate and necessary questions for investigating and study if we are to achieve critical understanding of the training projects" (p. 6).

Lederach (1990) provides a description of four training models on culture. Each model includes four dimensions: 1) purpose; 2) recipients 3) focus; and 4) method. These dimensions are on a continuum, reflecting various options on either end of the spectrum. At one end of the continuum for the purpose dimension is sensitizing the already trained to cultural differences. The other end of the spectrum is to "create a model from a particular cultural setting, rather than import it from outside the setting" (p. 6). In the middle of this continuum are two similar ideas. One asks, "How can we increase the participation of ethnically diverse people in the circle of trained mediators?" and the other asks, "How do we adapt our process to be relevant to ethnically diverse communities" (Lederach, 1990, p. 6).
The second dimension is recipients. This dimension asks, “Who is the target audience” (p. 6)? One end of the continuum is training aimed primarily at Anglo mediators. The opposite end is training directed at indigenous populations, which occurs less frequently in the United States, but is likely to occur in other countries. The middle of the continuum represents target audiences that are made up of a mix of individuals from diverse ethnic and language backgrounds.

The third dimension is focus. Is the focus on a particular conflict arena? Is the focus on cross-cultural conflicts, conflicts between interdependent cultural groups? Or is the training intracultural, where “the dominant cultural base of the participants is one culture, but the trainer may be of another” (Lederach, 1990, p. 6). At the center of this continuum, training may be focused on minority groups within a broader dominant culture.

The last dimension is method. On one end of the spectrum is what Lederach (1990) calls a “prescriptive or transfer approach” (p. 6) that teaches explicit skills, strategies, tactics, and models for resolving conflict. At the center of the continuum is a cooperative approach that combines particular ways of resolving conflict, but also “invites participants to react, pick and choose, and adapt aspects of the model to their situation” (p. 6). The other end of the continuum is the “elicitive approach” which “attempts to discover and create appropriate models of conflict resolution based on the knowledge and experience of the participants” (p. 6).

The four dimensions can be combined to create a variety of approaches to training. Lederach (1990) presents four approaches, shown in appendix B, C, D, and E. The first and most common approach (See Appendix B) is to sensitize the already trained mediator. It is usually an additional module to basic training or as a supplemental advanced training later covering broad cross-cultural communication issues. The strength of this approach is that it
recognizes that culture impacts mediation. The weakness of this approach is that it is generally presents cultural and diversity issues as a special concern, which tends to reduce culture to a set of broad generalizations and quick techniques. Very little emphasis is placed on adapting the mediation process.

The second approach (See Appendix C) is less prescriptive, presenting mediation as a "straw-model, to be critiqued, analyzed, changed and adapted to meet the unique qualities of a given setting" (Lederach, 1990, p. 12). The strength of this approach is that it presents the mediation model as culture-bound, limited, and adaptable. The disadvantage of this approach is that it does not fit into a short training session. It requires flexibility and follow-up.

The third approach (See Appendix D) is the "inclusive approach," oriented toward "the active involvement of members of different cultural communities" (Lederach, 1990, p. 12). Generally, the training model stays the same, but is presented to individuals from diverse backgrounds and incorporates more cultural and ethnic issues in discussions and role plays. The strength of this model is that it tries to increase participation by minority groups. The disadvantage is that while participants are different, the content stays the same. Mediators are taught "to proceed like dominant-culture mediators" (1990, p. 13).

The fourth and final approach (See Appendix E) is different from the other approaches in method and target audience. The "create-a-model" approach assumes that the context is not cross-cultural, but is working in a specific cultural setting. The model does not attempt to transfer particular mediation models and practices to the participants. This approach allows the participants to create a model "based on their own knowledge about the conflict and its management in their setting. Trainers consider themselves as catalysts, rather than as experts transferring a particular model. The task is to draw out and build on what is
present in the setting itself” (Lederach, 1990, p. 13). The strength of this approach is that appropriate mechanisms come from within the group rather than from without. It respects and relies on existing cultural knowledge. The disadvantage of this approach is that it takes considerable amount of time. Some individuals expecting a prescriptive method, may also be resistant to the process of discovering available options for resolving conflict.

These four approaches show a range of options for handling culture training. Training programs are rarely one pure approach, but a combination of approaches. According to LeResche (1990), effective trainings need to have several components. LeResche and Spruill (1990) recommend a “full scope of training components” (p. 5). The first is to teach cultural sensitivity and self-awareness, which many programs do. However, it is important to go beyond cultural sensitivity to deeper understandings of cultural values and beliefs. Hofstede’s cultural variables, orientations toward conflict, and issues of face, for example, help reveal an underlying framework for viewing the world. Instead of teaching about specific cultures, the concept of culture needs to be addressed in depth.

In addition to gaining a deeper understanding of culture, trainings need to teach mediators to go beyond cultural sensitivity to applying cultural knowledge to the process itself. “Information about cultural perspectives towards conflict and conflict resolution, values, communication styles and other significant variables needs to be transferred to the design of the conflict resolution itself” (LeResche & Spruill, 1990, p.4). This does not mean offering “a special process for each ethnic group, but we should know what features in a process are salient and sensitive for specific groups” (LeResche & Spruill, 1990, p. 4). LeResche and Spruill (1990) recommend a flexible process that begins by asking people what they believe is a fair process for resolving their conflict.
Developing a culturally sensitive and culturally appropriate process requires the discovery of key cultural issues. Ideally, the disputants should have the opportunity to express their expectations and concerns about the process, but this may not always be feasible. The following questions reveal essential considerations for a culturally appropriate mediation process. Incorporating cultural knowledge with the mediation process begins with contemplation of the following questions (based on LeResche, 1992; LeResche & Spruill, 1990).

- How do they view conflict and conflict resolution? (Normal? Shameful?)
- What do they consider the primary objective in resolving this conflict? (Solution? Harmony?)
- How is the process best initiated? Are there any special considerations for doing so? (By whom and in what way?)
- What are considered the appropriate roles and responsibilities for those involved in the conflict? (Generate solutions? Apologize? Be Passive? Interact?)
- What characteristics do they prefer in a third party? (Trained mediator? Respected individual from the community? Neutral? Unknown to parties? Temporary or long-term relationship with parties?)
- What role should the third party play? (Facilitator? Diplomat? Generator of solutions? Arranger of social events?)
- How should the mediator prepare for mediation? (Review case file? Meet extensively with both parties? Fact finding and meeting with individuals who know the disputants?)
- Where should mediation occur? (Office or informal setting?)
- Who should be present for mediation? (Just the disputing individuals? Extended family members and friends?)
• At what pace should the mediation be conducted?
(Few, relatively quick meetings? Numerous meetings and gradual progress over a long period of time?)

• How much should the mediation be structured?
(Predetermined rules and time for meeting? Duration of meeting completely flexible? Rules clearly established?)

• What kinds of discussions should be encouraged?
(Relational issues? Philosophical issues? Moral dilemmas?)

• What do they consider a fair solution?
(Create own solutions? Advice from the intermediary?)

• How should mediation be concluded?
(Announce definitive solution? Incorporate intuitive recognition that agreement is reached? Written agreement? Affirm the fine character of disputants?)

These questions are a useful tool for assessing situations when combined with cultural knowledge and understanding. Without a cultural framework these questions are of limited value. A cultural framework is important because it provides an awareness of the range of potential responses and expectations. The strength of these questions rests in their ability to raise cultural issues that may not have been considered previously. These questions also allow for responses unique to individuals and situations. Responses to these questions do not necessitate a change in the mediation process. They can, however, reveal the salient and sensitive issues for members of a given culture. How the mediator chooses to use this information is at his or her discretion.

Other Findings

As discussed in Chapter One, communities are diverse. Chapter Four reports variations among community mediation programs in Oregon. Although Oregon community mediation programs differ in areas of method, referral, and outreach, this variation has little
identifiable correspondence with the ethnic and cultural diversity of the communities they serve. Apart from the ODRC guidelines, programs varied significantly. Programs with like services had more similarities, but there were no identical programs. On the other hand, the differences seemed minor, not major.

A few programs had unique characteristics. One was the Hillsboro program, the only program in Oregon under the umbrella of a police department. Apart from the heavy use of police personnel, the program itself was quite similar to other programs. Although noted as unique, the advantages and disadvantages of being under the umbrella of a police department did not surface as a result of this interview. Those issues would be valuable to address in future research. Another unique programmatic characteristic from this same program was a requirement that all mediation go to the table. This policy, with notable effects on efficiency, reflects a particular ideology that emphasizes empowerment over problem-solving.

The Salem program used a unique three-person panel, as opposed to the co-mediation model. Although never specifically addressed, the three-person model is similar to that of the San Francisco Board. Because the Salem program was started as a result of community activists from the San Francisco Board's training, it seems logical that there would be programmatic similarities. Salem program personnel also did their information intake in person, rather than over the phone. Most VORP programs had similar practices, but only the Salem program did so as part of neighborhood mediation practice. From an organizational perspective, Eugene was the only program with a self-managed team. All other programs had a coordinator/director position overseeing the entire program.
The lack of uniformity across programs might be considered negative by some. The State of Oregon, professional associations and other regulating entities do not impose rigid rules and regulations on community mediation. On the other hand, the various programmatic differences demonstrate that while there are some established parameters for community mediation, the guidelines leave plenty of room for creativity and tailoring to the needs of the community.

Very few programs were static in terms of the kinds of services being offered. Many programs at their inception had begun with a single focus, but had branched into or were in the process of branching into new areas. Two elements of the process stood out as consistent across most programs. One was the widespread use of the co-mediation model. Based on responses, this did not appear to be a controversial issue and seemed in fact, to be the accepted standard for Oregon. Ironically, academic and professional literature on mediation say little about co-mediation. Christopher Moore’s book, *The Mediation Process* (1996), one of the more widely read mediation texts, devotes only two pages to co-mediation.

The other process element of the process referred to frequently, without provocation, was the issue of neutrality. The major criterion for process and procedures seemed to be that of neutrality. No other value came up so consistently in the discussion of the mediation process. I had expected to hear about other issues like empowerment, but neutrality kept surfacing during the discussion of the co-mediation model and the intake process.

Even though no specific question addressed funding explicitly, many respondents addressed this issue at some point in the interview. The issue of funding gained significance when it became apparent that for some programs funding was their primary concern,
preventing them from accomplishing some important program goals. On some level, funding was an important issue for every program. Each program had the burden of proving to its respective funding sources that its services were valuable and worthwhile. Some had more stable monetary situation than others, but the threat of losing funding seemed to be present for all.

Funding issues affected programs differently. For some the effects were more obvious than others. One program was unable to provide basic training for two years. For other programs, the constant funding struggle seemed to weigh heavily, enough to affect morale. On the other hand, some difficulties that initially appeared to be related to funding might also have been due in part to poor time and resource management.

One concern was the possibility of serious programmatic decisions made on the basis of maintaining or soliciting funds. A program might, for example, branch into areas with contract potential, like small claims or victim offender, in order to gain more financial stability and program stability. A contract provides both funding and referrals, two essential elements for programs survival. In many cases, this type of opportunity is a good choice. On the other hand, offering these types of services without sufficient training, resources, and knowledge to do so successfully could be counterproductive, with far-reaching detrimental repercussions for both the program itself and mediation as a whole.

Assuming the responsibility of such a contract should not be taken likely. If the job cannot be done well, the responsibility should not be accepted, no matter how much financial stability it may seem to offer. Program choices should be made on the basis of community need and not purely on financial need. If a program is not managing well what little they have, it should not take on more responsibilities. Programs in that situation should seriously consider whether the current number of staff and volunteers can handle an
increased caseload, new training, new forms, new procedures, etc. If the contract were to become defunct as a result of unmet expectations or some other unfortunate circumstance, it could make it impossible to reestablish the contract in the future. It might also have an affect on the ability of other programs in the state to establish similar contracts.

The other negative effect could be on mediation as a whole. Convincing the American public that mediation is a viable option is challenging. Although some people will try mediation once, if they have a bad experience they will most likely not try it again. They will also not refer mediation to friends and family. For that reason, it is important that every program see their collective role in providing a positive mediation experience to its clients.

With funding being such an important issue, programs can maximize their existing resources through better utilization of volunteers. The extent to which programs utilized volunteer help varied. Some programs enlisted volunteers to help with outreach, office duties, and various other tasks, while other programs used volunteers for the strict purpose of mediation. The use of volunteers is an important aspect of program success. It seems that there is a danger in one person trying to do outreach, training, fund-raising/grant-writing, coordinate volunteers, and mediate. Staff can become burned out if they try to accomplish everything themselves. Having a sufficient number of active volunteers and using them in areas other than mediation (outreach, publicity, general office duties, etc.) can increase the efficiency, productivity, and breadth of a program's services. Coordinating volunteers does take time and effort. The presence of volunteers is not enough. There must be a system for coordinating activities and responsibilities. Volunteers can be an invaluable resource if programs take the time to set up a system that works to accomplish it. Volunteers themselves can also be the ones to help establish these systems. It does not have to be completely staff-run.
Recommendations

Given the findings of this study, the question arises as to how programs can improve responsiveness to issues of culture and ethnicity. In response to this question, this study offers some tentative recommendations. This study presents these recommendations with the understanding that they need to be viewed in context of each individual program.

Recommendations for Mediators

Allow individuals to define their own culture and ethnicity. Do not assume a disputant's ethnicity based on physical appearance or other factors. Give the individual an opportunity to express and reveal what aspects of their identity he or she considers most salient. For example, the individual may be a member of an ethnic minority but choose to identify and align his or her values more closely with factors related to age or occupation.

Expect different expectations. Anticipate that disputants will come to mediation with varying expectations about roles, relationships, and outcomes.

Spend time devoted to learning the party’s expectations for mediation. Instead of focusing all attention on the conflict itself, devote time and energy during information intake to learn more about the individuals involved. Develop opportunities to learn their expectations and orientation to conflict and mediation. For example, some individuals may be more concerned about the long-term relationship with the other party than about reaching an equitable solution. Other individuals may prefer and expect substantial involvement on the part of the mediator.
Ask questions to identify cultural considerations. Use the questions presented earlier in the chapter to discover expectations or potential cultural considerations. Ask the parties directly when possible, but be prepared to discover answers through other means. Some individuals, cultures, or situations may require a more indirect approach to information gathering.

Know your own mediation values, assumptions, and goals. In addition to learning about the parties, a mediator must know herself/himself. Understanding your own style and preferences is the first step in adapting to the needs and preferences of others. Awareness and monitoring of your values, assumptions, and goals will also help determine which cases you are more suitable mediating.

Be a learner and student of other cultures instead of simply a “settlement expert.” Being a mediator does not mean that you have to know everything. Be open and willing to learn from the disputants. Give the disputants an opportunity to teach you about themselves and their culture.

Apply your cultural knowledge to the mediation process. Go beyond learning about cultural differences. Be creative and consider ways to adapt the process to make it more culturally sensitive. For example, consider using stories to make an important point.

Learn to recognize the presence of stereotyping and negative cultural myths. Be alert to comments, questions, and behaviors that suggest stereotypes. For example, listen for statements based on negative assumptions rather than actual facts.

Intervene when necessary and inject the shared value of equality into the mediation process. Do not permit stereotyping to continue. Allowing stereotypes to go unchecked places the stereotyped individual at a disadvantage. Addressing stereotypes also provides and opportunity to discuss the importance of accepting both individuals and differences.
Expand your repertoire of mediation tactics to include indirect approaches for managing conflicts. In addition to mediation tactics that are direct in nature, be able to use less direct approaches as well. The use of stories, for example, is an effective way to make a point and may also be more culturally sensitive. The use of silence during a caucus is another example of a less direct mediation tactic.

Consider cultural variables when assessing verbal and non-verbal interaction. When listening and observing the verbal and non-verbal interaction between disputants, reflect on potential underlying cultural variables that may be at work. Add cultural elements to your mental checklist when processing what is occurring during mediation.

Look for similarities between individuals as well as differences. In cases where culture is a significant factor, mediators need to be especially aware of the differences between individuals. However, mediators should also make a concerted effort to see the similarities as well. Helping the parties to see their similarities is an important way to bridge the gap created by the conflict and/or cultural differences.

Recommendations for Programs

Consider a training model that is less prescriptive in nature. Rather than teach specific strategies and tactics for each situation, encourage audience participation in the development of acceptable solutions and tactics. Establish a training environment that values and includes the opinions and perspectives of the trainee.

Make cultural considerations an integral part of mediator training. Devote adequate training time to issues of culture. Include aspects of culture throughout the training instead of as a future add-on piece of training. Making culture a central aspect of training helps individuals to see the extent to which culture permeates every situation.
Teach mediators to incorporate cultural knowledge into the mediation process. Beyond teaching cultural knowledge, teach mediators how to apply this knowledge to the mediation process. Without a practical application, cultural information is of limited value to mediators.

Establish policies and procedures in advance for language interpretation. Be prepared for situations that require an interpreter. Having policies and procedures established in advance reduces the likelihood of settling for less than ideal circumstances.

Do not compromise interpreter standards for serious cases. Finding a suitable interpreter can be challenging, but do not compromise interpreter standards for serious cases. Doing so jeopardizes the potential for a successful mediation and may make your program vulnerable to lawsuits.

Know your program's ideological assumptions and consider the impact of these assumptions in light of various cultures. Each mediation program should be aware of the ideological assumptions affecting programmatic choices and decisions. Programs need to know these ideological assumptions and consider the impact they may have on various culture groups using its services.

Be open to different goals and expectations of mediators and disputants. Despite goals and expectations established by the mediation program as a whole, individual mediators and disputants may not share these views. Programmatically, staff members need to be able to be flexible enough to accommodate various views of mediation.
Limitations

One limitation of this study was the significant time span from the first interview to the last interview. Ideally, these interviews should have been around the same time frame to more accurately reflect any trends taking place in Oregon as a whole. To create a more complete picture of community mediation in Oregon, securing an interview in Eastern Oregon would also have been ideal.

Another limitation is that program directors and coordinators provide the information about the programs they help to run. Their assessment is valuable in that they know what is happening within the program on a large scale. On the other hand, they may not be as objective. They may be unwilling to reveal aspects of the program that need improvement and their report may be either too optimistic or too pessimistic. Soliciting viewpoints from volunteers, board members, and participants would provide a well-rounded perspective.

Reflections on the Process

While interviews followed a standard format, new ideas and important questions emerged over the course of the interviews. Respondents were not forced to answer questions in a particular way and were given the opportunity to speak about those issues most salient to them even if not addressed directly in the interview protocol. Some of the questions were presented in such a way that there was significant room for interpretation. Responses were influenced by respondents understanding of my intentions—what I hoped to learn. For example, if I did not ask for clarification of details the respondent was more likely to think I wanted them to answer the question in a broad sense rather than responding
with precision and detail. Questions about volunteer mediator requirements and the type of outreach done were questions that some respondents answered very narrowly, while others gave more comprehensive answers. For some of the respondents, answering questions more thoroughly may have required further reflection not permitted within the time frame of the interview. This difference in the responses may account for some of the answers that seemed more simplistic and incomplete.

The terms "culture" and "ethnic minorities" were intentionally not defined for the respondents. This contributed to variety in the responses given. Some respondents chose to identify youth or socioeconomic factors as cultural differences and others automatically associated cultural issues with language barriers. Respondents defined and interpreted these terms themselves, rather than reacting to definitions I as the researcher might provide. By doing so, the study did not impose definitions that might not fit with the type of cultural issues experienced by a particular program. In most cases, respondents who grouped youth, age, and other such factors into the definition of culture specifically clarified that they were doing so.

It became evident after all the interviews were conducted that in conjunction with knowing about the type of outreach being done, as well as the extent to which minorities were using services, it would be valuable to know the demographic makeup of staff, volunteers, and board members. Considering the fact that the one program primarily servicing a minority community was made up of a diverse group of volunteers and staff, this information may have provided insight into a program's ability to attract and provide services for minority groups.
Conclusion

The challenge for community mediation programs is significant. As communities become more diverse, there may be a greater need to be prepared for an increase of cases that involve minorities. It may be that the minority groups continue to resist the use of mediation, but individuals from the dominant culture may still refer cases involving diverse cultural groups. Either way, mediation programs need to be prepared for those situations.

How each program chooses to adapt and respond to issues related to culture and ethnicity will vary. The critical factor is that programs have a solid understanding of culture and ethnicity issues and the implications of these dimensions on mediation programs and processes. Regardless of whether culture groups are currently using community mediation services, now is the time to begin to prepare for the future instead of waiting until the need arises.


APPENDICES
APPENDIX A

List of Interview Questions

General:

1. Can you tell me about your center?
2. What kinds of dispute resolution services do you provide?
3. How many cases do you typically handle in a month/year?
4. Are there certain groups in the community that use your services a lot?
5. Are minority groups in the community using your services?
6. Do you target any particular group(s) in the community?

Publicity:

7. What kind of advertising/marketing/publicity do you do currently?
8. Do you have any plans to target minorities (or any other group) in your community?
9. Are any of your materials in more than one language?

Training:

10. Does your center currently offer mediator training? How often? How many hours?
11. What mediation training/experience do you require for mediators?
12. Does your current training program cover issues related to culture?
13. How much time is devoted to the issue of culture?
14. Are there any specific actions/behaviors that you teach for handling cross-cultural disputes?
15. Are there any areas related to culture that you are considering adding to your training?

Mediator Selection:

16. How many active mediators do you have?
17. How many paid staff members do you have?
18. How are mediators selected for each case?
19. Do mediators ever co-mediate?
20. Is there a particular mediator or group of mediators who are generally selected for cases where culture is an important factor?
21. How do you get volunteer mediators?
22. What kinds of publicity do you do to get volunteer mediators?
23. Do you specifically recruit mediators?
24. Do you recruit in minority communities?
APPENDIX A, Continued

Intake Process:

25. How does a case first come to you?
26. What happens after the initial contact?
27. How is information gathered?
28. Who conducts the initial interviews?
29. Where does the mediation occur?
30. What happens if you discover the case involves a minority group? Would that change the way you approach the process?
31. If there is a language barrier, how would it be handled?
32. What do you feel is the biggest challenge your center faces concerning minorities/culture/etc.?
33. What kind of hopes do you have for the future?
34. Do you publish an annual report?
APPENDIX B

The "Sensitize-a-Mediator" Approach
(Lederach, 1990, p. 11)
APPENDIX C

The "Adapt-a-Process" Approach
(Lederach, 1990, p. 12)
APPENDIX D

The "Inclusive" Approach
(Lederach, 1990, p. 12)
APPENDIX E

The "Create-a-Model" Approach
(Lederach, 1990, p. 13)