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Mediation and Community Justice Centres:
An empirical study

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TABLE OF CONTENTS

Preface	v
Terms of reference	vi
1. INTRODUCTION	1
BACKGROUND	2
PURPOSE OF THIS RESEARCH.....	2
2. THE SURVEY	5
METHODOLOGY	6
Development of the telephone survey	6
Recruitment of CJC survey participants.....	6
Interviewing survey participants.....	6
RESPONSE RATES.....	7
PARAMETERS.....	7
Characteristics of participants.....	7
Parties in the mediation	8
Source of referral to CJs mediation for Party A participants.....	8
Relationship between parties.....	8
3. THE FINDINGS.....	9
SUMMARY OF FINDINGS.....	10
Pre-Mediation processes	10
Conduct of mediation	10
Mediation outcomes.....	11
Comments about mediation	11
DETAILED FINDINGS.....	12
Apprehended Personal and Domestic Violence Orders	12
Pre-mediation.....	13
Voluntary attendance	13
Information about the mediation	14
Conduct of mediation	17
Pressure to make an agreement	17
Mediators	18
Co-mediation	19

Mediation outcomes.....	20
Agreements between the parties.....	20
Satisfaction with mediation outcome	21
Mediation outcome and relationship between parties.....	23
Mediation outcome and satisfaction among participants with either an APVO or ADVO.....	24
Impact of mediation on the situation	25
Likelihood of using CJs again	25
APPENDIX A: SURVEY DOCUMENT	27

Preface

This Research Report is published as part of the Law Reform Commission's review of the *Community Justice Centres Act 1983* (NSW). The result of the Commission's review is Report 106, entitled *Community Justice Centres*.

The data for this Report was collected by means of a telephone survey conducted during July and August 2004. The purpose of the survey was to obtain information on the experience and satisfaction of people who had participated in a Community Justice Centre mediation during this period of time. The Commission gratefully acknowledges the assistance of Ms Deborah Sharp, Director, Community Justice Centres, and Mr Andrew Windever, Manager, Policy and Projects, CJC Directorate, for their comments on the draft survey prepared by the Commission, and their assistance in facilitating the conduct of the survey. The Commission also acknowledges the assistance of Dr Don Weatherburn, Director, New South Wales Bureau of Crime Statistics and Research, in the development of the survey instrument.

Ms Cassandra Bourne, a Masters student in Forensic Psychology at the University of New South Wales, was responsible for the preparation of the draft survey, all telephone interviews of survey participants, and the preparation of the Research Report. Ms Bourne was undertaking a placement at the Law Reform Commission as part of satisfying the requirements for her Masters degree. Mr Joseph Waugh, Senior Legal Officer at the Law Reform Commission, was responsible for overseeing the preparation of the Research Report, and providing advice as required.

Peter Hennessy

Executive Director

Terms of reference

Community Justice Centres

In a letter to the Commission received on 2 October 2002, the Attorney General, the Hon R J Debus MP referred the review of the *Community Justice Centres Act 1983* (NSW) including:

- (a) The role of Community Justice Centres as a statewide conflict management and mediation service;
- (b) Whether the current structure of Community Justice Centres sufficiently meets the needs of the indigenous community of New South Wales;
- (c) The role and entitlements of mediators; and
- (d) Any related matter.

1. Introduction

BACKGROUND

1.1 Community Justice Centres (CJCs) were established on a permanent basis in 1983 with the passing of the *Community Justice Centres Act 1983* (NSW) (“CJC Act”). Initially they had been established as a pilot program.¹ The NSW Law Foundation conducted a review of the CJCs pilot program in 1982.²

1.2 The 1982 review of the pilot program included an evaluation of CJC users’ experience of the mediation service.³ No research has been conducted with persons participating in the CJCs mediation service since the pilot program review.

PURPOSE OF THIS RESEARCH

1.3 The NSW Law Reform Commission (NSWLRC) is conducting a review of the CJC Act. The Commission decided that information on participants’ experience and satisfaction would assist in developing recommendations as part of its review. A telephone survey was conducted of people participating in CJC mediations in the 8 week period from 5 July 2004 to 29 August 2004.

1.4 The Commission sought information on how participants were referred to CJC mediation and the nature of the relationship between mediating parties. The Commission also sought information on the number of Apprehended Personal Violence Orders (APVOs) or Apprehended Domestic Violence Orders (ADVOs) involved in CJC mediated disputes.

1.5 The Commission asked participants their views on the pre-mediation process, the conduct of mediation and the outcome of mediation:

- *Pre-mediation process.* Participants were asked if they felt there was a choice in attending the mediation at CJC’s. Participants were asked about their knowledge of the CJC mediation process. The Commission also sought information on the number of participants that were aware of the right to cease the mediation session.
- *Conduct of mediations.* Participants were asked their views of the mediators’ skills and also the impartiality of mediators. The Commission also sought information about whether participants felt pressured to make an agreement.

1. *Community Justice Centres (Pilot Project) Act 1980* (NSW).

2. J Schwartzkoff and J Morgan, *Community Justice Centres: a report on the New South Wales pilot project, 1979-1981* (Law Foundation of NSW, 1982).

3. J Schwartzkoff and J Morgan, *Community Justice Centres: a report on the New South Wales pilot project, 1979-1981* (Law Foundation of NSW, 1982) at 103.

- *Outcome of mediation.* The Commission sought information on the extent of participants' satisfaction with the outcome of their mediation session. Participants were also asked their views on the impact of mediation on the situation in dispute.

1.6 The survey was designed to obtain qualitative and quantitative information about participants' views on the CJs mediation service, and to encourage participant's to express their views about their experience.

2. The survey

METHODOLOGY

Development of the telephone survey

2.1 A draft survey was prepared in June 2004 and was sent for comment to the following people:

- Dr Don Weatherburn, the Director of the New South Wales Bureau of Crime Statistics and Research and a part-time Commissioner with the NSWLRC.
- Mr Andrew Windever, Manager, Policy and Projects of the CJs Directorate.

In July 2004, comments received were incorporated into the final survey.

Recruitment of CJC survey participants

2.2 Participants were recruited through CJs regional Interviewing Officers. Once a person agreed to take part in a mediation, he or she was invited by the Interviewing Officer to participate in the NSWLRC survey. Those who agreed to participate in the survey had their names, telephone contact details and mediation dates forwarded by email to the Manager, Policy and Projects of the CJs Directorate who then forwarded the information to the Commission.

Interviewing survey participants

2.3 Participants were contacted by telephone on home, work or mobile numbers. Two participants required the use of a telephone interpreter service, although only one completed the survey. Telephone interviewing was conducted from 5 July 2004 to 31 August 2004. For those participants who were unable to be contacted initially, regular attempts were made to contact them throughout the interviewing period.

2.4 Upon contact, and before undertaking the survey, participants were informed about the nature of the survey, the time required to complete the survey and information about confidentiality. At the completion of the interview, participants were informed they could contact the Commission regarding the survey and given contact details.

RESPONSE RATES

2.5 A total of 106 referrals were received from CJC. Of these, 71.3% were interviewed. Table 1 sets out the overall and regional referral and response rates.

Table 1. Total number of referrals and responses within CJsCs regions

	Sydney	Northern	Western	Southern	Total (N)
Referred	8	45	22	31	106
Unable to Contact	2	6	1	8	17
Declined	0	1	0	0	1
Not interviewed	1	1	0	1	3
Did not mediate	0	1	5	3	9
Interviewed	5	36	16	19	76
Total % Interviewed by Region	6.6	47.4	21.1	25	

2.6 Almost half of the surveyed participants (47.4%) were from the CJC Northern region, and one quarter (25%) of survey participants were from the CJC Western region.

2.7 It appeared that some Interviewing Officers at the CJsCs were more active in eliciting referrals than others, which may account for the disparity between the number of referrals from each region.

PARAMETERS

Characteristics of participants

2.8 The age of survey participants ranged from 17 years to 76 years and the average age was 42.5 years. The number of female participants was 42 (55.3%), and the number of male participants was 34 (44.7%). The majority of survey participants (91.5%, n = 70) did not identify themselves as either Aboriginal or Torres Strait Islander peoples or as Non English Speaking Background (NESB). Two (2.6%) participants identified as Aboriginal people, and 4 participants (5.3%) identified as NESB.⁴

4. The percentage of participants in the survey who identified as Aboriginal or Torres Strait Islander peoples, NESB or neither are similar to that reported in the CJsCs 2002- 2003 annual report.

Parties in the mediation

2.9 CJs define Party A as the person who contacts a CJC to raise the matter and open a file. The other people involved are identified as Party B, Party C and so on. In this survey, participants were identified as either Party A or Party B by asking “did you start the mediation process”. There were a greater number of survey participants that identified as Party A (57.9%, n = 44) compared to participants that identified as Party B (42.1%, n = 32), however this difference was not significant ($\chi^2 = 1.895$, $p = 0.169$).

Source of referral to CJs mediation for Party A participants

2.10 Survey participants identified as Party A were asked how they were referred to CJs. Of those 44 participants identified as Party A, self-referral and magistrate referral were the most frequently cited referrals to CJs (14.5%, n = 11 each), followed by a chamber magistrate or other court official (9.2%, n = 7), other legal service including legal aid, private solicitor or community legal centre (7.9%, n = 6), a local or state government department (6.6%, n = 5) and the police (5.3%, n = 4). Overall, 63.6% of Party A participants said they were referred to CJs from a legal source.⁵

Relationship between parties

2.11 Participants were asked the nature of their dispute. Almost half (42.1%, n = 32) reported their mediation was with a neighbour, 30.3 % (n = 23) reported a family relationship⁶, 11.8% (n = 9) reported a social relationship, 9.2% (n = 7) reported a commercial / business / organisation relationship and 5.3% (n = 4) reported a work relationship between themselves and the other party.⁷

2.12 Approximately one-third (31.6%, n = 24) of participants reported an APVO was involved in their dispute and 7.9% (n = 6) reported that an ADVO was involved in their dispute.⁸

5. These percentages are similar to those outlined in the CJs 2002-2003 annual report where it is reported that 67% of cases were referred from a legal source.

6. These percentages are similar to those outlined in the CJs 2002-2003 annual report where 45% of disputes involved a neighbour and 26% of disputes involved family.

7. One participant declined to give a response.

8. See para 3.8.

3. The findings

SUMMARY OF FINDINGS

Pre-Mediation processes

3.1 The findings on pre-mediation processes are:

- The majority of participants reported that they felt they had a choice in attending the mediation. Some of the participants referred to CJC mediation by either a magistrate or the police reported they did not feel they had a choice in attending the mediation.
- The majority of participants reported that they felt they understood what was to happen in the mediation session. A lower percentage of participants, although still in the majority, reported they were aware that they could stop the mediation and that they had enough information about mediation prior to attending the mediation session.
- Some participants reported that the time it took between initial contact with CJs and the mediation date was too long, while most reported it was satisfactory. The majority of participants reported there was enough time during the mediation to deal with the disputed issues.

Conduct of mediation

3.2 The findings on the conduct of mediation are:

- Some participants reported they felt pressured during the mediation session to make an agreement, although the majority of participants did not. The most frequent reason given for feeling pressured was the other party involved in the mediation.
- The majority of participants reported the mediators did not favour any one party over another in the mediation. Most participants reported the mediators understood their concerns. The majority reported that the mediators allowed them to have their say in the mediation.
- Almost all participants reported that it helped to have two mediators during the mediation session.

Mediation outcomes

3.3 The findings for the outcomes of mediation are:

- For most participants the outcome of the mediation was either an agreement or partial agreement. For those participants who reported a partial agreement, most had a further mediation session arranged by CJs.
- The majority of participants reported they were either satisfied or partially satisfied with the outcome of the mediation. Of those who reported they were not satisfied with the outcome, none of the mediation sessions had resulted in an agreement (statement of resolved issues) between the parties.
- Most participants felt that the mediation had improved their situation. Almost all participants reported that they would use the mediation service at CJs again.

Comments about mediation

3.4 The findings on participants' comments regarding the mediation are:

- The most common responses about the best aspect of the CJs mediation were the mediators' skill, the opportunity to discuss the dispute with the other party, the opportunity to understand the other party's point of view, avoiding court and that it is a free service.
- About half the participants reported no problems with the mediation at CJs. Problems raised by participants varied but included having to return to court and the conduct of the other party during the mediation.
- The most common suggestions for improvement that participants gave about the mediation service at CJs were increasing public awareness of the service and making agreements legally binding.

DETAILED FINDINGS

Apprehended Personal and Domestic Violence Orders

3.5 In the survey, participants were asked if their dispute involved an Apprehended Personal Violence Order (APVO) or Apprehended Domestic Violence Order (ADVO). Responses to this question are set out in Figure 3.1.

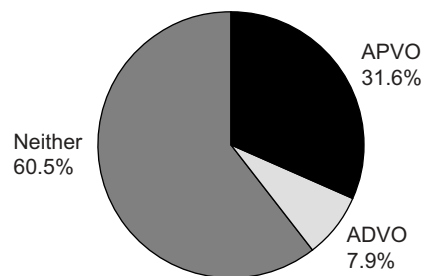


Figure 3.1: Percentage of participants reporting that an APVO or ADVO was involved in their dispute

3.6 Of the total number of surveyed participants, 31.6% (n = 24) reported that an APVO was involved in their mediation and 7.9% (n = 6)⁹ reported that an ADVO was involved.

3.7 These numbers are higher than outlined in recent CJC annual report statistics.¹⁰

3.8 One reason for the higher number obtained in the Commission's survey is that CJsCs' figures on APVOs and ADVOs are based on the number of files opened annually where the cases involved an order. The Commission's survey statistics are based on individual participants and *not* cases, thus both parties participating in the survey and more than one participant interviewed from either Party A or B would elevate the incidence of APVOs and ADVOs compared to CJC statistics. All survey participants could not be reliably matched if both Party A and Party B were interviewed to provide a direct comparison with CJC statistics. The overall incidence of APVOs and ADVOs in this survey should be regarded as higher than would be obtained in CJsCs annual reports.

9. Of those participants who said an ADVO was involved in their mediation, one participant made the following response when asked "what problems, if any, did you have with the mediation at CJC?":

(the other party) had a chance to run me down in the session, what (the other party) thought about me personally rather than the issues. The mediators didn't stop it, but they probably didn't know (the other party) was doing it. It undermined my confidence and self-esteem. It's not a problem, just a query.

10. See CJsCs Annual Report 2002-2003 and 2001-2002. In the year ending 30 June 2003, 16% of files opened at CJsCs involved an APVO. For the period 1 September 2001 to 30 June 2002, 1% of files opened involved an ADVO.

3.9 The 30 participants where mediations involved either an APVO or ADVO were also asked whether they had applied for the order or if the order had been made against them. A greater number of participants (n = 19) reported that they had applied for the apprehended violence order involved in their dispute, compared to 11 participants that reported the order had been made against them by the other party in their mediated dispute.

Pre-mediation

Voluntary attendance

3.10 Voluntary participation and attendance in mediation is provided under section 23 of the CJC Act. It has been acknowledged that coercion to mediate is not simply influenced by statutory provisions to do so, but may also be influenced by social and political factors ¹¹.

3.11 The Commission asked participants if they felt they had a choice in attending the mediation session. Responses to this question are set in Figure 3.2.

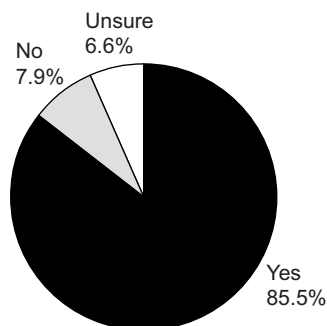


Figure 3.2: Percentage of participants reporting that they felt there was a choice in attending mediation

3.12 The majority of participants (85.5%, n = 65) reported they felt they had a choice in attending the mediation, compared to 7.9% (n = 6) who responded that they felt they did not have a choice, 6.6% (n = 5) reported they were “unsure”.

3.13 Of those participants who reported feeling they did not have a choice in attending the mediation at CJs, 5 were identified as Party A and 1 as Party B. The referral source of the Party A participants was 3 by magistrates, 2 by police officers and one by a chamber magistrate.

11. H Astor and C Chinkin, *Dispute resolution in Australia* (2nd edition, Lexis Nexis Butterworths, Australia, 2002) at 274.

3.14 The following are quoted from the participants who responded they did not feel they had a choice in attending the mediation:

- “because it was from the magistrate”
- “the other party had an eviction notice so I had to”
- “the police couldn’t sort it out beforehand, so I had no choice”
- “because it was work”
- “court told me I had to”

Information about the mediation

3.15 Participants were asked if they had enough information about mediation prior to attending the mediation session. The responses to this question are set out in Figure 3.3.

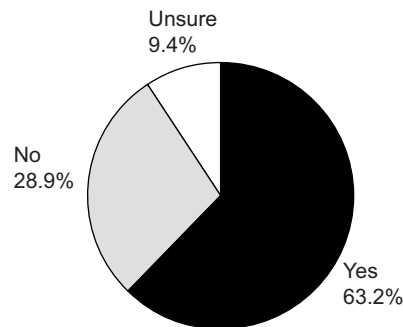


Figure 3.3: Percentage of participants reporting they had enough information prior to attending the mediation

3.16 Many of the participants (63.2%, n = 48) reported they felt they had enough information, although 28.9% (n = 22) reported they did not have enough information and 5 participants (9.4%) reported they were unsure.

3.17 Participants were asked if they understood what was going to happen in the mediation session. The responses to this question are set out in Figure 3.4.

3.18 The majority of participants (77.6%, n = 59) said they understood what was going to happen in the mediation prior to attending.

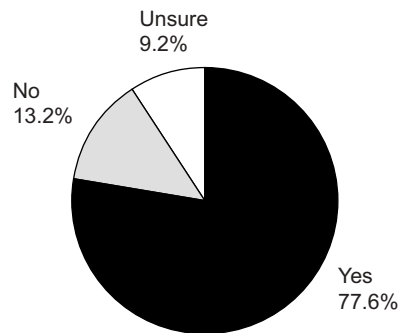


Figure 3.4: Percentage of participants reporting they understood what was going to happen in the mediation

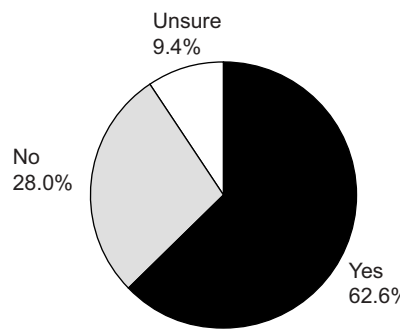


Figure 3.5: Percentage of participants reporting they were made aware they could stop the mediation

3.19 Participants were also asked if they were aware that they could cease the mediation at any time. Responses to this question are set out in Figure 3.5.

3.20 Almost two thirds of participants (63.2%, n = 48) responded that they were aware they could cease the mediation at any time. Of those 27.6 % (n = 21) participants who reported they were not aware several provided additional comments about the issue (although not specifically asked):

- “ I would have stopped it had I known I could have”
- “ I tried to leave the mediation in the first hour, the mediator said I couldn’t leave”

3.21 Participants were asked their opinion about the time it took from the initial contact with CJC through to the start of the mediation session. Responses to this are set out in Figure 3.6.

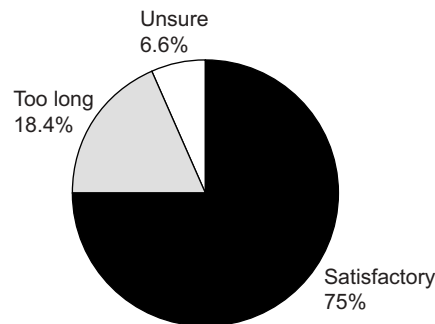


Figure 3.6: Participants' responses to the duration between contact from CJC and the mediation session

3.22 A total of 57 (75%) participants responded that the time from initial contact with the CJC through to the mediation session was satisfactory. For those participants who responded it was too long (18.4%, n = 14) some provided reasons for this, (although they were not specifically asked):

- “Not the Community Justice Centres fault, we had to get council approval”
- “Not Community Justice Centre’s fault but the other party”
- “Because there was five people involved, difficult to organise everybody”
- “Had to have it to suit CJC”

3.23 Participants were asked if there was enough time during the mediation session to deal with the issues. Figure 3.7 sets out their responses.

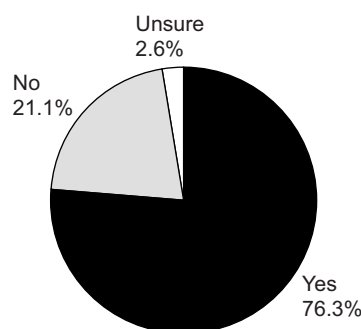


Figure 3.7: Percentage of participants reporting they felt there was enough time to deal with the issues during the mediation

3.24 The majority of participants (76.3%, n = 58) said they felt there was enough time during the mediation session to deal with the issues from their point of view, compared with 21.1% (n = 16) of participants who reported there was not enough time.

Conduct of mediation

Pressure to make an agreement

3.25 Participants were asked if they perceived any pressure to make an agreement during their mediation session. Responses to this question are set out in Figure 3.8.

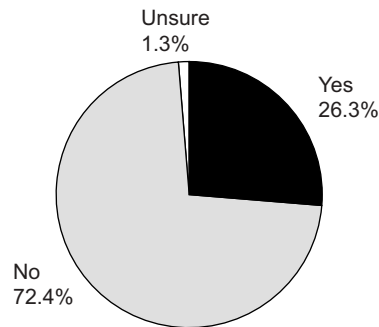


Figure 3.8: Percentage of participants who reported they felt pressured to make an agreement during mediation

3.26 Over one quarter of participants (26.3%, n = 20) responded they felt pressured to make an agreement during the mediation session, with the majority (72.4%, n = 55) reporting they did not feel pressured.¹²

3.27 For participants who said they felt pressured to make an agreement during the mediation session, they were also asked what they thought was the source of the pressure. Figure 3.9 sets out their responses.

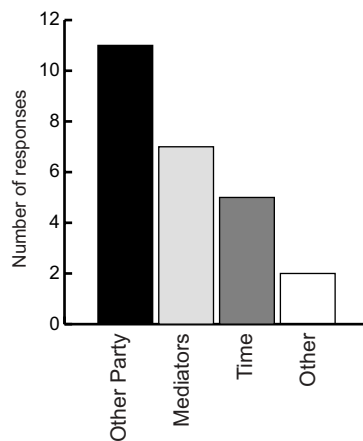


Figure 3.9: Percentage of responses on the source of pressure to make agreement

12. A survey of individuals who participated in court-based small claims mediation in the UK found that 14% participants reported they felt pressure to settle during the mediation. See S Prince, *Court based mediation: A preliminary analysis of the small claims mediation scheme at Exeter County Court* (a report prepared for the Civil Justice Council, 2004) at 54.

3.28 Of the 20 participants responding they felt pressured to make an agreement during the mediation, the most frequently reported source of the pressure was from the other party (n = 11), followed by the mediators (n = 7) and time (n = 5).¹³ Two participants cited the pressure as being self imposed.

Mediators

3.29 One of the core skills and requirements of mediators is the ability to conduct mediations in a neutral or impartial manner. It has been suggested that when a disputing party perceives a mediator as being partial to one party, the confidence of the disputing parties in the process can be undermined.¹⁴

3.30 Participants in this survey were asked if they felt the mediators favoured one party’s point of view over another. Responses to this question are set out in Figure 3.10.

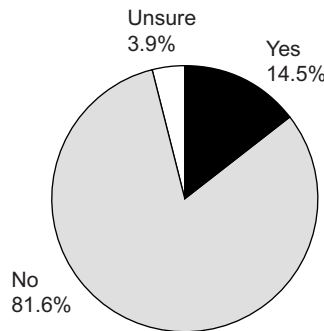


Figure 3.10: Percentage of participants reporting they felt the mediators favoured one party's point of view

3.31 The majority of participants (81.6%, n = 62) reported they did not feel that the mediators favoured one party’s point of view over another.

3.32 Participants were also asked if they felt the mediators understood their concerns. Figure 3.11 sets out their responses.

3.33 The majority of participants (84.2%, n = 64) reported they felt the mediators understood their concerns.

3.34 Participants were also asked if they felt the mediators allowed them to have their say during mediation. Responses to this question are set out in Figure 3.12.

13. The total responses are higher than the number of participants as some participants gave multiple answers.

14. See US Model standards of conduct for mediators, item II.

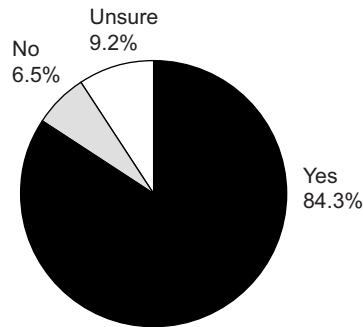


Figure 3.11: Percentage of participants reporting they felt the mediator understood their concerns

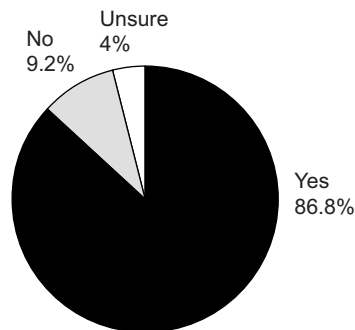


Figure 3.12: Percentage of participants reporting they felt the mediators allowed them to have their say during the mediation

3.35 Again, the majority of participants (86.8%, $n = 66$) responded that they felt the mediators allowed them to have their say during the mediation session.

Co-mediation

3.36 Participants were asked if they thought it helped to have two mediators. Almost all participants (94.7%, $n = 72$) said that it helped having two mediators. Common reasons given by participants for this were:

- gender balance with a male and female mediator
- different views
- two different perspectives
- so points aren't missed
- one might be able to see a point more clearly than the other and can clarify it
- more objective

- less chance of bias
- ensures neutrality
- complement each other’s skills
- to help each other manage the session

3.37 Overall, most participants in the survey responded positively on questions regarding the mediators’ skills in terms of not favouring one party’s point of view over another, understanding of participants concerns and allowing participants to have their say during mediation.¹⁵

Mediation outcomes

Agreements between the parties

3.38 Of the 2,786 cases that were mediated at CJC’s between 1 July 2002 and 30 June 2003, 82% resulted in an agreement between the parties. Mediation outcomes at CJC’s are defined either as an agreement (statement of resolved issues), a partial agreement (statement of unresolved issues) or no agreement. Mediations can also be terminated by either the mediators or the parties involved. Participants were asked the outcome of their mediation. Figure 3.13 sets out their responses to this question.

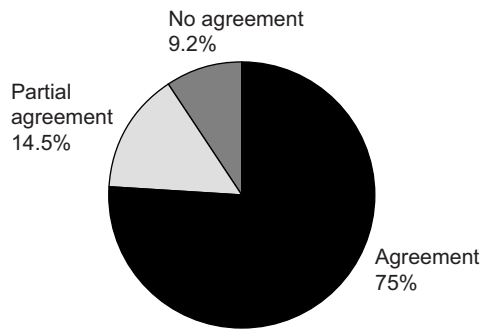


Figure 3.13: Mediation outcomes reported by participants

15. In the 1982 CJC’s pilot project, 78.8% and 16.8% of participants reported they were very satisfied or partly satisfied with the mediators respectively. See J Schwartzkoff and J Morgan, *Community Justice Centres: a report on the New South Wales pilot project, 1979-1981* (Law Foundation of NSW, 1982) at 112.

3.39 The majority of participants (75%, n = 57) reported that an agreement (statement of resolved issues) was obtained between the parties in their mediation, and 14.5% (n = 11) reported their mediation resulted in a partial agreement (statement of unresolved issues). For 9.2% (n = 7) of survey participants, no agreement was made.¹⁶

3.40 For the 11 participants where partial agreements had been obtained in the mediation, most of these participants (n = 8) also reported that a further mediation session had been arranged by the mediators. This may account for the slightly lower number of agreements reported by participants compared to the CJsCs annual statistics. No participants reported that their mediation session had been terminated.

Satisfaction with mediation outcome

3.41 In this survey, participants were specifically asked if they were satisfied with the outcome of their mediation. Responses to this question are set out in Figure 3.14.

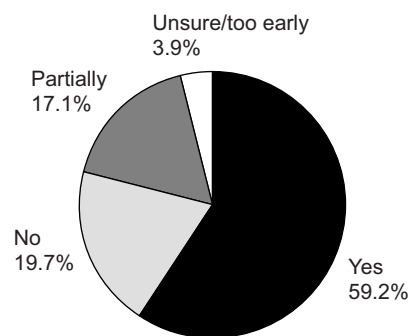


Figure 3.14: Percentage of participants reporting satisfaction with the mediation outcome

3.42 Over half (59.2%, n = 45) of the participants reported they were satisfied with the outcome, 19.7% (n = 15) reported being 'partially' satisfied with the outcome, 17.1% (n = 13) reported they were not satisfied with the outcome and 3.9% (n = 3) reported they were 'unsure / it was too early to say'. These results are similar to those obtained in the 1982 review of the CJC pilot program.¹⁷

16. One participant declined to answer.

17. See J Schwartzkoff and J Morgan, *Community Justice Centres: a report on the New South Wales pilot project, 1979-1981* (Law Foundation of NSW, 1982) at 113.

3.43 Figure 3.15 shows the mediation outcomes according to participant satisfaction with the outcomes.

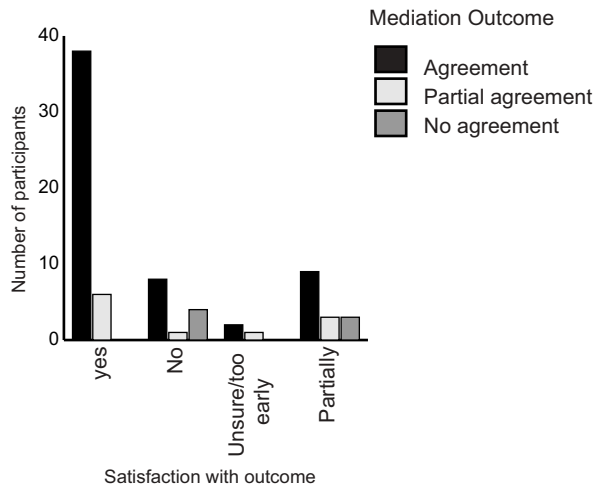


Figure 3.15: Mediation outcome and satisfaction

3.44 For the 7 participants who reported no agreement was made in the mediation, 4 reported they were not satisfied with the outcome and 3 reported they were partially satisfied. For the 57 participants where an agreement was made, the majority reported they were either satisfied with the outcome (n = 38) or partially satisfied with the outcome (n = 9).

3.45 There were 8 participants who reported an agreement was made and also reported they were not satisfied with this outcome. Some of these participants provided reasons for not being satisfied with the outcome:

- “The other party hasn’t complied. I will have to go to court”
- “The other party only went because they were told they had to by the magistrate, they weren’t serious about it”
- “We went back to court anyway”
- “The other party wouldn’t budge and didn’t mean it. I will have to go back to court to get an AVO”
- “It didn’t cover all the issues”.
- “I’m glad it’s resolved, but a lot of damage has been done by the other person...I gave in for my own peace of mind”

Mediation outcome and relationship between parties

3.46 For the majority of participants, an agreement was made regardless of the nature of the relationship between the parties. Figure 3.16 shows the types of mediation outcomes according to the relationships between the parties.

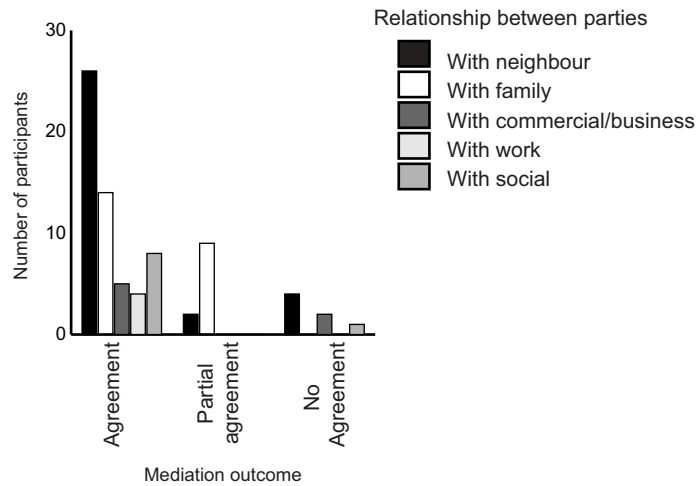


Figure 3.16: Mediation outcome and relationship between parties

3.47 Of the 4 participants whose mediation involved a work relationship between the parties, all resulted in an agreement. For those 23 participants where the dispute involved a family relationship, an agreement was reported by 14 participants, a partial agreement was reported by 9 participants and none reported that their mediation had resulted in no agreement between the parties. Of those 9 participants where there was a family relationship and the mediation had resulted in a partial agreement, 7 reported that a further mediation session had been arranged.

Mediation outcome and satisfaction among participants with either an APVO or ADVO

3.48 Figure 3.17 shows the types of mediation outcomes according to whether an APVO or ADVO was involved in the dispute. All of the participants where an APVO or ADVO was involved in their dispute reported that their mediation resulted in an agreement or partial agreement.

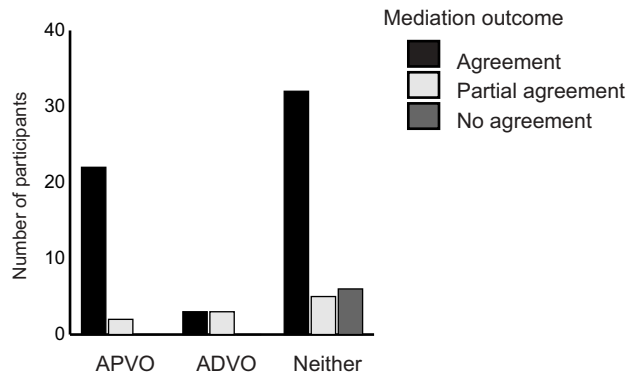


Figure 3.17: Mediation outcome where an APVO or ADVO was involved in the dispute

3.49 Figure 3.18 shows participants' satisfaction with the outcome of mediation according to whether there was an APVO or ADVO involved in their dispute. The 6 participants where an ADVO was involved in the dispute reported they were either satisfied or partially satisfied with the outcome. Of the 24 participants who reported an APVO was involved in their dispute, 14 reported they were satisfied with the outcome, whereas 5 reported they were not satisfied and 4 reported they were partially satisfied.

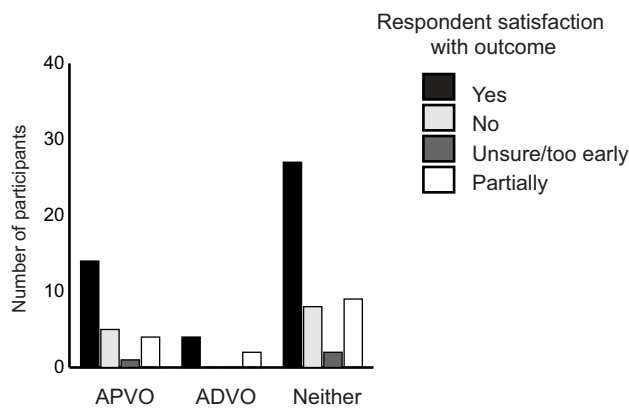


Figure 3.18: Satisfaction with outcome where an APVO and ADVO was involved in the dispute

Impact of mediation on the situation

3.50 Participants were asked what impact they thought the mediation had on the situation in dispute. Responses to this question are set in Figure 3.19.

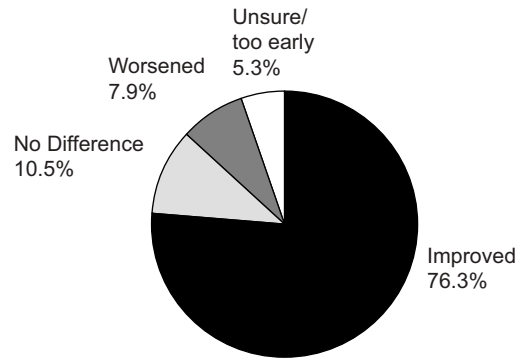


Figure 3.19: Participant responses to the impact that mediation had on their situation

3.51 The majority of participants (76.3%, n = 58) reported they felt the mediation had improved their situation, compared to 7.9% (n = 6) and 10.5% (n = 8) of participants who reported they felt the mediation had worsened their situation or made no difference respectively.

Likelihood of using CJs again

3.52 Participants were also asked if they would use mediation at CJC's again. Figure 3.20 sets out the responses to the question.

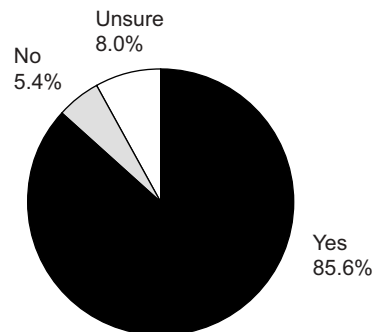


Figure 3.20: Percentage of participants reporting they would use CJs again

3.53 The majority of participants (85.5%, n = 65) responded they would use mediation again at the CJs.¹⁸ Of the 45 participants who said they were satisfied with the outcome, almost all (n = 44) reported they would use CJs again and 1 participant said they were “unsure”. Of those 13 participants who said they were not satisfied with the outcome, 7 reported they would use CJs again, 3 reported they were unsure and 3 reported they would not use CJs again.

18. In the 1982 review of the CJs pilot program, 74.8% of participants reported they would use CJs in the future. See J Schwartzkoff and J Morgan, *Community Justice Centres: a report on the New South Wales pilot project, 1979-1981* (Law Foundation of NSW, 1982) at 116.

A. **Survey document**

NSW LAW REFORM COMMISSION

Community Justice Centre Mediation Survey & Evaluation

I am a researcher with the NSW Law Reform Commission conducting a survey about mediation at Community Justice Centres. I understand that you were recently involved in a mediation matter. Is this correct?

This survey is to evaluate participants' satisfaction with the mediation service. There are about twenty five questions and the survey will take approximately 10 minutes. Is that okay?

All the information will be treated confidentially. No personally identifiable information will be included in any reports, publications or records. I will read each of the questions to you and provide you with options for your answer. Please ask if you need any of the questions to be repeated.

RESPONDENT CHARACTERISTICS

1. Gender

- 1= Male
- 2= Female

2. Age

- 1 = < ~ 29 yr
- 2 = 30 - 45yr
- 3 = 46 - 60 yr
- 4 = + 60 yr

3. In what town or city was your mediation session held?

REFERRAL PROCESS

4. Did you start the mediation process?

- 1 = Yes (Party A, go to Q 5)
- 2 = No (Party B, go to Q 6)

5. If yes, how were you referred to CJC?

- 1 = Magistrate
- 2 = Chamber Magistrate (or other local court official)
- 3 = Police
- 4 = Other Legal Service (eg. private / legal aid / community legal centre)
- 5 = Local / State Govt Dept (specify).....
- 6 = Other (specify).....
- 7 = Self

If self, how did you find out about Community Justice Centres?

.....

6. What was the nature of your dispute?

- 1 = Neighbour
- 2 = Family
- 3 = Commercial / business
- 4 = Work
- 5 = Social (i.e. non family/neighbour/work)

6 = Other (specify)

7. Did your dispute involve an:

- 1 = APVO
- 2 = ADVO
- 3 = neither

8. Did you feel that you had a choice in attending the mediation?

- 1 = Yes
- 2 = No
- 3 = Unsure

If NO, why not?

PRE-MEDIATION INFORMATION

9. Do you feel that you had enough information about mediation prior to attending the mediation session?

- 1 = Yes
- 2 = No
- 3 = Unsure

10. Did you understand what was going to happen in the mediation?

- 1 = Yes
- 2 = No
- 3 = Unsure

11. Were you made aware that you could stop the mediation at any time?

- 1 = Yes
- 2 = No
- 3 = Unsure

MEDIATION PROCESS

12. From your first contact with the CJC through to the mediation session, do you think the time it took was:

- 1= Too long
- 2 = Too short
- 3 = Satisfactory
- 4 = Unsure

13. Do you think there was enough time during the mediation session to deal with issues from your point of view?

- 1= Yes
- 2 = No
- 3 = Unsure

MEDIATOR SKILLS

14. Are you from a

- 1 = NESB (go to Q 15)
- 2 = ATSI (go to Q 15)
- 3 = neither (go to Q 16)

15. If from NESB or ATSI, do you think the mediators were sensitive to your cultural background?

- 1 = Yes
- 2 = No
- 3 = Unsure

16. Did you feel pressured during the mediation session to make an agreement?

- 1 = Yes (go to Q 17)
- 2 = No (go to Q 18)
- 3 = Unsure (go to Q 18)

17. If yes, did you think the pressure come from the:

- 1 = Other party
- 2 = Mediators
- 3 = Time
- 4 = Other (specify).....

18. Do you think the mediators favoured one party's point of view over another?

- 1 = Yes
- 2 = No
- 3 = Unsure

19. Do you think the mediators understood your concerns?

- 1 = Yes
- 2 = No
- 3 = Unsure

20. Do you feel the mediators allowed you to have your say during the mediation?

- 1 = Yes
- 2 = No
- 3 = Unsure

21. Do you think it helped having two mediators?

- 1 = Yes
- 2 = No
- 3 = Unsure

Why / why not? (specify).....

MEDIATION OUTCOMES

22. What was the outcome of your mediation?

- 1 = Agreement (Statement of Resolved Issues)
- 2 = Partial agreement (Negotiated Statement of Unresolved Issues)
- 3 = No agreement (terminated mediation)
- 4 = Other (specify)

23. Were you satisfied with the outcome?

- 1 = Yes
- 2 = No
- 3 = Unsure

24. Do you feel the mediation has either:

- 1= Worsened the situation for you
- 2= Improved the situation for you
- 3= Made no difference

25. Would you use the mediation at CJC again?

- 1 = Yes
- 2 = No
- 3 = Unsure

26. What do you think was the best aspect about the CJC mediation?

.....

.....

27. What problems did you have with the CJC mediation?

.....

.....

28. Do you have any ideas on how the CJC mediation could be improved?

.....

.....

That was my final question. Thank you for participating in the survey. If you would like further information about this survey, please contact the NSW Law Reform Commission. Would you like the telephone number?

