

Requested Documents

Question on Notice

No. 863

Asked on 25 November 2014

Dr Douglas asked the Attorney-General and Minister for Justice (MR JARROD BLEIJIE)—

QUESTION: With reference to adult justice mediation associated with diversion of offenders from the Queensland formal legal process—

Will the Minister advise (in table format) (a) what reports have been internally generated by any process by the Department of Justice and Attorney-General in the past five years on justice mediation matters and (b) what actions have been taken as a result of these reports on these matters?

ANSWER:

I thank the Member for Gaven for His question.

The Department of Justice and Attorney-General provides restorative justice mediation processes, through the Dispute Resolution Branch, to the Queensland community under the *Dispute Resolution Centres Act 1990* through the Dispute Resolution Branch. The justice mediation program applies a victim offender conferencing model and the National Restorative Justice Guidelines to suitable criminal matters. Most referrals come from Queensland Police Service Prosecutions Corps and are for first time adult defendants or offenders in relation to less serious matters. Participation is voluntary for all parties, including victims. This service is delivered in Brisbane, Gold Coast, Townsville and Cairns.

It is completely up to the victim if they wish to participate in justice mediation. If the victim does not wish to participate, the matter is dealt with in the normal way through the criminal courts. This is in line with the Newman Government's focus on putting the rights of the victim first. Not only has the Government changed the law so that a victim must be given the chance to read their victim impact statement if they wish to, but the Government has also ensured that victims of violent crimes receive a free copy of their court transcript. The Newman Government has also provided an additional \$2 million over four years to various organisations that support victims of crime.

The internally generated reports on justice mediation matters in the last five years and the subsequent actions are listed in the table below:

Report	Audience	Actions
2010		
Briefing Note – Justice Mediation Program – Mediation of Serious Matters (July)	Parliamentary Estimates Committee	None required
2011		
Internal Review of the Justice (criminal) Mediation Program by Kay Gaffney (February)	Stakeholders	<ul style="list-style-type: none">• 16 recommendations made• 6 recommendations implemented• New information technology not supported at the time.

Report	Audience	Actions
		<ul style="list-style-type: none"> Service expansion, links with regulatory agencies and legislative change not supported at the time but are in current pre-contestability service model review Video conferencing facilities were available from January 2012
Conclusions about definitions, sources and counting rules (March)	Business unit	Used to manage consistency in reporting at that time. Some of the rules are no longer current
Report on Re-Offending Variance by Stephen Royce (May)	Business unit	Discussed within business unit. Findings supported and noted as valid but consensus was that they should be optional and that, in a voluntary process, it would not be appropriate to impose them on all clients. Case management by single officer was not practical in all offices.
Question on Notice 1000 – 2011 – Reply (June)	Queensland Parliament	None required
Briefing Note - Criminal Justice Mediation (July)	Parliamentary Estimates Committee	None required
Memo to Director General - Justice Mediation Review Report (December)	Director-General	Briefing note for Attorney-General requested
Briefing Note - Publication of Report on Internal Review of Justice Mediation Program (December)	Attorney-General	Distribution of report to key stakeholders
2012		
Workload Analysis Report – Dispute Resolution Branch – 2012 by Anna Temple (May)	Business unit	Discussed within business unit and used by managers to manage workloads.
Participatory Justice and Victims Conference 2012 – Presentation Abstract by Stephen Royce and Kylie Mills (September)	Participatory Justice and Victims Conference 2012	Abstract accepted by conference and presentation made in September 2012
2014		
Policy – Restorative Justice Conferencing (October)	Business unit	These policies are now consistent with the National Restorative Justice Guidelines
Practices – Restorative Justice Conferencing (October)	Business unit	These practices are now consistent with the National Restorative Justice Guidelines
DG Memo - Justice Mediation - Police Officer Victim Complainants and Compensation (November)	Director-General and Commissioner of Police	Request to Commissioner of Police to review QPS guidelines on referral of matters involving police officers
Ongoing Reports		
DJAG Annual Reports (2009-14)		Not applicable

Question on Notice

No. 1000

Asked on Thursday, 16 June 2011

MRS CUNNINGHAM asked the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (MR LUCAS)—

QUESTION:

With reference to the Justice Mediation Program—

- (1) What was the program funding in 2008-09, 2009-10, 2010-11 and what is planned in the forthcoming year?
- (2) How many jurisdictions outside Brisbane, Cleveland, Ipswich, Cairns, Townsville and South Cooloolo have accessed the program?
- (3) When will the program be extended across Queensland?

ANSWER:

I thank the Member for Gladstone for her question.

In 2008-09 the Justice Mediation Program heard 357 cases, all of which were successfully mediated with actual expenditure for the year totalling \$441,817.

In 2009-10, 408 cases were mediated with only 1% of cases not reaching successful agreement. The actual expenditure for 2009-10 was \$507,507.

In 2010-11 estimated expenditure is \$499,555 and for the 2011-12 financial year expenditure is forecasted at \$500,000.

In addition to the jurisdictions mentioned in the question, the Justice Mediation Program operates on the Gold Coast for Southport and Coolangatta court matters, and may also accept referrals from the Beenleigh court.

Within the greater Brisbane area the program provides services to the Richlands and Holland Park courts and, where resources are available, the program may also accept referrals from other courts including the Gladstone Magistrates Court.

The Department of Justice and Attorney-General is aware of the demand for justice mediation services across the State. Gradual extension of the program to additional locations is under consideration.

Internal Review of the Justice (criminal) Mediation Program



The author's contact details are:

Kay Gaffney
Practice Manager
Dispute Resolution Branch
Department of Justice and Attorney-General
GPO Box 149
Brisbane Qld 4001

Phone: (07) 3239 6301

Email: kay.gaffney@justice.qld.gov.au

9 February 2011



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EXECUTIVE SUMMARY

The purpose of this review was to provide an assessment of the effectiveness of the Justice Mediation program with regard to client and stakeholder satisfaction and degree of recidivism; and a relatively objective analysis of the workload of Justice Mediation Officers and other staff.

The review found that the Dispute Resolution Branch's (JM) program is effective in achieving a number of important outcomes: high participant satisfaction rates and indicative low re-offending rates. For those participants who responded to the client satisfaction survey, satisfaction rates are high. This is a valuable outcome because there is some evidence that high complainant / victim satisfaction rates are correlated with improved psychological and physical health post-mediation (Rugge and Scott, 2009). One report also suggests high defendant / offender satisfaction rates are correlated with reduced re-offending (Shapland et al, 2008).

Indicative re-offending rates found in this review were an average of 8 per cent, with one location having a rate of only 1.5 per cent. The State average of 8 per cent compares favourably with Bonta et al's (2006) results which found a recidivism rate of 12 per cent. It must be noted however, that this latter study used rigorous methodology to assess recidivism, while the current review did not.

Regarding efficiency of the program, workloads analyses conducted in February 2010 in the four locations in which the program operates, showed that for all but one location the program is operating efficiently. The lack of efficiency in one location is due to the low number of referrals received and possibly the complexity of the matters referred in that location.

The workloads analyses showed that in another location, the program was slightly under resourced in February by about one day per fortnight. There is a trend towards increasing referrals in this location and it has needed additional temporary staff from time to time. If the trend continues, this location will need additional staff on a permanent basis in the short to medium term future, as resources become available.

The review found that stakeholders were generally satisfied with the operation of the program, although they did make a number of suggestions for improvement, including a number of additional locations in which there is demand for the JM program. No specific recommendation has been made about the location/s into which the program should expand, as this is dependent on the results of trialling a number of alternative service delivery models.

Resources currently available for expansion are limited, being dependent on revenue raised by the Dispute Resolution Branch (DRB). Alternative service delivery models, some of which were suggested by stakeholders, will be trialled. These include piggybacking on court circuits in some areas, using video-conferencing and/or Skype technology, using casual / sessional justice mediators to conduct all or parts of the process, and a blended approach with elements of the current service delivery model and the alternatives proposed to be trialled.

A stakeholder also identified a number of risks with the program related to participants and to justice mediation processes. Because these risks have potentially significant consequences, both for participants and for the Department, strategies need to be developed to manage these risks. Although current justice mediation staff are highly experienced, these risks, if unmanaged could become unacceptable as the program expands and less experienced staff are used.

It was identified at the scoping stage of the project that some modification to the organisational structure would be needed to manage the provision of justice mediation services in expanded locations. Later it emerged that other issues needed to be taken into consideration. These issues included the need for greater support for Justice Mediation Officers; additional resources required for process and system improvement and service development in the Branch; the need to separate responsibilities in terms of case management / client service and process and system improvement and service development; and the excessive and inequitable workload of the South Queensland Dispute Resolution Centre Coordinator.

Proposed amendments to the organisational structures of the South Queensland, North Queensland and Far North Queensland Dispute Resolution Centres are presented in section 7 of this report. The proposal integrates DRB regional services and provides clearer reporting relationships, greater support, career opportunities, leadership and accountability. There is a shortfall in funding of \$79,017.00 which will need to be self-funded before changes to the structure can be implemented.

An issue shaping the future direction of the Justice Mediation Program is the resources required to meet increased demand for services. It is proposed that the DRB seeks to form partnerships with regulatory agencies to deal with breaches of regulations for which prosecution in a court may otherwise be considered. This would produce considerable cost savings to these agencies and the Queensland Government, and provide additional revenue for the DRB to meet increased demand.

Another issue impacting on the future of the Justice Mediation Program is the apparent confusion of some stakeholders created by the lack of a clear legislative provision for mediation of criminal matters. It is suggested that the wording of the sections of the *Magistrates Court Act 1921*, the *District Court of Queensland Act 1967*, and the *Supreme Court of Queensland Act 1991* relate to the referral to mediation of civil matters. Confusion, a waste of court and DRB resources is created when these acts are used to refer criminal matters to mediation. It is therefore proposed that representation be made to the Attorney-General to add to his legislative agenda amendments to the *Dispute Resolution Centres Act 1990*, the *Penalties and Sentences Act 1992* and the *Justices Act 1886* to make specific legislative provision for the mediation of some criminal matters.

LIST OF RECOMMENDATIONS

It is recommended that:

1. Justice mediation staff systematize sending questionnaires to defendants and complainants four to six weeks following a mediation; and that mediators inform the parties at the end of the mediation that this will occur, explaining that assessing defendants' and complainants' satisfaction is an important outcome for the program to measure.
2. Consultation occurs with the Judiciary, Police Prosecution Units and the ODPP to ascertain their views about accepting referrals of the following offence types, possibly as non-diversionary mediations:
 - Domestic violence charges
 - Public nuisance, possession of a knife in a public place etc., and
 - Arson/attempted arson in certain circumstances, such as where the conclusion of a long running dispute and compensation is achievable.
 - Going armed so as to cause fear, in certain circumstances
3. The practices used in the location with a 1.5 per cent re-offending rate be observed to find out if there are any differences in practices when compared with the other locations which might account for this low re-offending rate with a view to these practices being adopted in all locations.
4. Information and data collection, recording and management be standardised for the purpose of statistical comparison:
 - demographic details (age, gender and ethnicity particularly Indigenous status)
 - principal offence,
 - number of concurrent offences,
 - number of prior convictions,
 - whether previously imprisoned, and
 - whether the mediation was a face-to-face meeting between the defendant and complainant or the complainant submitted a Victim Impact Statement (VIS).

It is further recommended that if necessary, the database in which case information is recorded be amended to facilitate the easy collection and collation of this data; or efficient spreadsheets be developed.

5. Once the data noted in recommendation 4 has been collected for 2 years, a university be commissioned (resources permitting) to undertake a methodologically rigorous study of the effectiveness of the Program in collaboration with the DRB.

6. In accordance with section 13 of the *Justice and Other Information Disclosure Act 2008* negotiations commence for the Director-General, Department of Justice and Attorney-General to enter into a written arrangement with the Commissioner, Queensland Police Service, for the electronic transfer to the Justice Mediation Program of the following information:
 - demographic details (age, gender and ethnicity particularly Indigenous status)
 - principal offence,
 - number of concurrent offences,
 - number of prior convictions,
 - whether previously imprisoned.
7. The Business Process Map in Attachment C be assessed by staff for further improvements in efficiency and effectiveness of service delivery.
8. Adoption of more efficient business systems be considered for inclusion in the Branch's 5 year plan (under development). This includes:
 - an IT system that allows the electronic transfer and migration of information from referrers directly into the data base;
 - automated letter writing and 'smart' templates enabling drawing information directly from the data base; and
 - a more visual file management tool.
9. Specific location/s into which the program be expanded be reconsidered in consultation with courts after the results of the trials of alternative service delivery models are available.
10. Video-conferenced and / or Skyped interviews with complainants and defendants and mediations and / or offering mediations on circuit, be trialled, after the provision of this service is costed and staff are properly trained. It is also recommended that the results of any trial in terms of client satisfaction, re-offending rates and resources required be compared with the usual process.
11. The logistics and cost-effectiveness of conducting the Justice Mediation Program on circuit be investigated with a view to testing the feasibility of this approach for expanding the locations at which justice mediation can be provided.
12. A combined / flexible approach be adopted to resource the expansion of locations, possibly combining this approach with the circuit approach (if the logistics of the circuit approach prove practicable and cost-effective); and the use of video-conferencing / Skype if the results of a trial of this show the program's outcomes can be maintained.

13. Strategies are developed to manage the risks noted in Table 10, categorised as client based risks when working with defendants and complainants; and working in a mediation session with both complainant and defendant; process based risks; Strategies should include identification of any existing controls, the likelihood and consequences of the risks identified in Table 10, a risk rating, action and timeframe; and that these strategies should be added to the department's risk register.
14. The proposed structure as presented on the following pages is implemented in the following order:
- i. DRC Coordinator, SQ (AO6)
 - There are no funding implications for the DRC Coordinator, SQ (AO6) or the Civil Mediation Officer, SQ (AO5) as these positions are re-designated from the positions of the Justice Mediation Coordinator (AO6) and DRC Coordinator, SQ (AO5) respectively.
 - Neither are there any displacement issues for these positions since the Justice Mediator Coordinator position is vacant and the occupant of the DRC Coordinator, SQ (AO5) is acting. However, it has been a long term acting arrangement.
 - ii. Civil Mediation Officer, SQ (AO5)
 - iii. Intake Support Officer, SQ (AO3 x 0.6)
 - The position of Intake Support Officer, SQ (AO3 x 0.6) is currently filled on a temporary basis and is funded by revenue raised.
 - iv. Justice Mediation Officer, SQ- Brisbane (AO5)
 - This position is a new one. An existing self-funded temporary AO4 position will be upgraded. It will continue to be funded from revenue raised.
 - v. DRC Coordinator, NQ (AO6)
 - This position will be a re-classification of the DRC Coordinator, NQ (AO5) position. Re-classification of the position is justified by the increase in responsibilities created by the integration of civil and criminal mediation services.
 - vi. Policy Officer (AO6 x 0.6)
 - This position is a new one and will not be filled until revenue is available to fund it.
15. The DRB develops partnerships with regulatory agencies, such as the Department of Environment and Resource Management and the Department of Employment, Economic Development and Innovation (Protecting Queensland) to provide cost-effective restorative justice (justice mediation) services when a breach of a regulation occurs for which prosecution in a court may otherwise be considered.

16. Representation be made to the Attorney-General to add to his legislative agenda, through the next Justice and other Legislation Bill, amendments to the *Dispute Resolution Centres Act 1990*, the *Justice and other Information Disclosure Act 2008*, the *Justices Act 1886* and the *Penalties and Sentences Act 1992*. Amendments to the *Dispute Resolution Centres Act* are to specify the principles of justice mediations, eligibility and suitability criterion and process, the referral process, referring entities, the stages of the criminal justice process at which referrals are made the range of cases for which justice mediation is not be considered, and the way in which referring entities and the courts are informed of the outcomes of justice mediations.

Amendments to the *Justice and other Information Disclosure Act 2008* are to enable an arrangement between the Director-General and the Commissioner to be formalised about the exchange of information about persons referred to dispute resolution for criminal matters. Amendments to the *Justices Act* are to clarify that this Act is to be used for referrals for criminal mediations.

1.0 INTRODUCTION

1.1 PURPOSE AND SCOPE OF THE REVIEW

The purpose of the review was to provide an assessment of the effectiveness of the program with regard to client and stakeholder satisfaction and degree of re-offending; and the efficiency of the program as assessed by a relatively objective analysis of the workload of staff. The scope of the project includes all four locations in which the program currently operates as well as other locations into which the program may expand.

While risk management was not originally within scope, one stakeholder presented a risk analysis for the program. It was therefore decided it was too important to exclude this from the report.

1.2 HOW THE JUSTICE MEDIATION PROGRAM OPERATES

The DRB's Justice Mediation is a criminal restorative justice program primarily for adult defendants/offenders with no or limited criminal histories. The program commenced in 1992 and has been operating in its current state since November 2007 when the expansion of the program to Cairns, Townsville and the Gold Coast occurred.

The program employs a conferencing model in which all affected parties (defendant/offender, complainant/victim, and ideally, their families and close friends) meet together to develop an agreed plan – the justice mediation agreement, which is signed by the defendant/offender and the complainant/victim.

Referrals to the program are mostly diversionary. Referrals can however be made at other stages of the criminal justice process. These are outlined below:

Explanation of Referral Types

Court/Police Prosecutor Diversionary referrals: Come from Police, Police Prosecutors, Office of the Director of Public Prosecutions.

Court Pre-Hearing: The Judge/Magistrate orders the offender to mediation before the court hearing occurs.

Court post Committal/Pre-Hearing: The Judge/Magistrate orders the offender to mediation post the committal stage but before the District Court trial.

Court Pre-Sentence Referrals: Pre-sentence referrals can come from Magistrates Courts and District courts at the request of a Magistrate or Judge, Prosecution or Defence Lawyers. This normally occurs after a plea of guilty or finding of guilt.

Court Sentencing Order: The Judge / Magistrate orders the offender to JM, post conviction as part of the offender's sentence.

Post-Sentence Offender & Victim: Post-sentence referrals can come at the request of a victim, victim's family or offender wishing to meet the other party after the court process runs its course. These requests are generally for very serious offences, e.g. manslaughter and murder. They require a separate process and may come at any time after sentencing. These mediations are generally case-managed and conducted by the senior Justice Mediation Program staff. Usually the offender is in prison or on parole, and do not happen very often.

All referrals initially undergo an eligibility assessment which checks that the offence type is suitable and the nature of the defendant's / offender's criminal history, if any.

Justice mediation can be used to deal with a wide range of matters including, but not limited to:

- Offences against the person: Assault (of varying levels of severity) including Sexual Assault
- Offences against property: Wilful damage; stealing; fraud; break and enter
- Offences against the State¹: Assault Police, public nuisance
- Non-criminal matters: Bullying

If the referral is considered eligible, a suitability assessment is conducted which checks that:

- people are willing to participate voluntarily,
- defendants/offenders accept responsibility for their actions,
- defendants/offenders show remorse for their actions,
- defendants/offenders and complainants/victims have the capacity and do understand the process, and
- complainants'/victims' expectations of outcomes are realistic.

The DRB believes that this thorough assessment is critical to the success of the program. Strang, 2002 (in Ruge and Scott, 2009) found that victims who experienced the restorative approach were less angry and less fearful post-process than pre-process. Strang found that offenders' acceptance of responsibility was a key component of the process and in cases where this did not occur, the victims were not satisfied, but instead felt re-victimized. These findings bear out the importance of thorough defendant/offender assessment and voluntary participation.

The actual mediation comes at the end of the JM process after most of the hard work has been done, and after the interviews, negotiation of outcomes, and confirmation of support persons (if any) have occurred. The program employs trained and nationally accredited mediators, many of whom have a social science background and who have received additional training in JM.

¹ The Justice Mediation program only mediates Regina matters where there is a complainant or representative of the state (i.e. police officer) that is willing and able to participate in the mediation process. This representative must be able to negotiate on and finalise outcomes that are suitable to the referrer.

1.3 AIMS AND BENEFITS OF THE JUSTICE MEDIATION PROGRAM

The main aims and intended benefits of justice mediation are to:

- Divert adult first time² offenders [and juveniles (post-sentence matters)] from the criminal justice system;
- Provide a mediation process that addresses offending behaviour;
- Enable direct or indirect reparation to the person/s affected by the offending behaviour by their involvement in the process and determination of outcomes;
- Provide greater opportunity for the defendant to gain an understanding of the personal impact of their actions by listening to the harm caused to or experienced by the complainant and reflecting on the harm to their own family and friends;
- Enable the defendant to be accountable for their offending behaviour and take steps to repair the harm through a range of outcomes including, but not limited to, an apology, restitution, compensation, counselling and an undertaking not to re-offend;
- Reduce re-offending; and
- Provide an opportunity for healing and reintegration for both the complainant and the defendant and their respective families and members of the community who also may have been affected.

1.4 THEORETICAL CONTEXT

Restorative justice is based on reintegrative shaming theory (Braithwaite, 1989) which posits that social disapproval – shaming – has an impact on the emotions of offenders (defendants in the JM program).

Braithwaite defines reintegrative shaming as disapproval that is respectful of the person, is terminated by forgiveness, does not label the person as bad nor allows condemnation to have a public and pervasively humiliating impact on the self-esteem of the defendant/offender. The theory predicts that reintegrative shaming will result in less offending than stigmatising shaming. Stigmatising shaming is seen as not respectful of the person, is not terminated by forgiveness, labels the person as bad, and facilitates condemnation to have a public and pervasively humiliating impact on the defendant. Braithwaite contends that this latter type of shaming results in greater levels of offending.

The issue of whether restorative justice does reduce re-offending is discussed in section 3.1. There are other important outcomes of restorative justice, such as those noted in section 1.2, in particular, complainant / victim satisfaction. This issue is taken up in section 2.1.

² The Justice Mediation program may accept referrals where defendants have minor or unrelated criminal histories.

2.0 PROGRAM EFFECTIVENESS

2.1 CLIENT SATISFACTION

Cuneen and Luke, 2007 (in NSW Attorney General's Department, 2009) assert that the importance placed on lowering recidivism in restorative justice programs should be balanced by the other program outcomes and community benefits. Defendant / offender and complainant / victim satisfaction rates are among those important outcomes.

Shapland et al (2007) reported that victims and offenders who participated in conferencing were generally very positive about the experience, both in follow-up interviews a few weeks after the conference and in final interviews some eight to nine months after. Communication with the other party was the most valued element of the conference. Where there was any dissatisfaction, this tended to centre on disputes between the victim and offender as to what had happened in relation to the offence.

The importance of client satisfaction is indicated by the finding that both victim and offender satisfaction rates are significantly correlated with a greater degree of positive changes in both psychological and physical health from pre-program to post-program (Rugge and Scott, 2009).

The JM program assesses client satisfaction by sending a 12 question survey to complainants and defendants who have participated in a mediation two to four weeks following the date of the mediation. This is done for parties who have participated in a face-to-face mediation as well as those where the complainant provided a victim impact statement (VIS), but did not participate in the mediation. Questionnaires for face-to-face mediations for both complainants and defendants are attached - Appendix 1. Questionnaires for VIS mediations are attached at Appendix 2.

Response Rates

While the responses have generally been very positive, the response rates have not been so good, ranging from 20 percent in 2008-09 to 35 per cent in 2009-10 for complainants in face-to-face mediations; and from 17 per cent in 2008-09 to 19 per cent in 2009-10 for defendants in face-to-face mediations.

The response rates for complainants in VIS mediations have been even worse, ranging from 5 percent in 2008-09 to 17 percent in 2009-10; and about the same for defendants in VIS mediations, 16 percent in both 2008-09 and 2009-10.³

In an attempt to improve response rates it is recommended that JM staff follow a strict schedule of sending questionnaires to parties four to six weeks following the mediation in order to attempt to improve the response rate.

³ Responses to questionnaires for parties in VIS mediations were received in one location only: and have therefore been excluded from this analysis.

Recommendation 1:

It is recommended that Justice Mediation staff systematize sending questionnaires to defendants and complainants four to six weeks following a mediation; and that mediators inform the parties at the end of the mediation that this will occur, explaining that assessing defendants' and complainants' satisfaction is an important outcome for the program to measure.

Complainants' Responses - Face-to Face Mediations

Parties are asked to rate their responses on a 5 point scale, 5 being the highest score. The results for 2008-09 and 2009-10 for all questions except questions 4 and 12 are shown in Table 1 below. Responses to questions 4 and 12 are presented in Tables 2 and 3 respectively.

Analysis of the results shows that complainants' satisfaction with the Queensland Government's JM program is high, although there is some room for improvement.

Complainants' median responses for 2009-10 improved slightly on what was a relatively high base in 2008-2009 for:

- the degree to which complainants felt informed about progress;
- if they would recommend the program to others;
- the degree to which they believed they made informed decisions regarding the management of the matter;
- the degree to which they felt they were able to express how they were affected by the incident.

For the remainder of the questions (except questions 4 and 12), the median responses were the same in 2009-10 as they were in 2008-09. (See Table 1 over page).

Question 4 focussed on defendants' feelings about the situation pre- and post mediation. Evaluations conducted on three programs⁴ in other states found that victims experience a decrease in levels in anger, fear and anxiety following their participation in a restorative justice conference (Department of Justice and Community Safety, 2006 in NSW Attorney General's Department, 2009). It is therefore commendable that responses to question 4 in the JM survey improved in 2009-10 on responses in 2008-09 (see Table 2).

⁴ These programs were conducted in the Australian Capital Territory for youth at all stages of the criminal justice process; West Australia on a program for adults and juvenile (stage of the criminal justice process not specified) and in NSW and South Australia (no information given on age or stage of criminal justice process).

Table 1: Complainants' Responses Face-to-Face Mediations 2008-09 & 2009-10

Survey Item	2008-09 Median ⁵ Response	2009-10 Median Response
Q 1: To what degree were you satisfied with the justice mediation program?	4 (Satisfied)	4 (Satisfied)
Q2: To what degree, do you feel, you were kept informed about the progress of the matter?	4 (Well informed)	4.5 (Between well informed & very well informed)
Q3: Would you recommend this service to others?	4 (Agree)	4.5 (Between Agree & Strongly agree)
Q4: What were your feelings about the situation / matter before the mediation, compared to now? What is different?	See Table 2	
Q5: To what degree do you believe the <u>defendant</u> demonstrated feelings of regret about the incident?	4.5 (Between very & quite regretful)	4 (Quite regretful)
Q6: To what degree do you believe the <u>defendant</u> demonstrated that s/he accepted responsibility for the incident?	4 (Quite a bit)	4 (Quite a bit)
Q7: To what degree do you believe the <u>defendant</u> demonstrated that s/he understood the effect that his/her actions had/have on you and your family and friends?	4 (Understands)	4 (Understands)
Q8: To what degree, do you believe you made informed decisions regarding the management of this matter?	4 (Quite a bit)	5 (Completely had a sense of it)
Q9: To what degree do you believe you were able to express how you were affected by the incident?	4 (Quite a bit)	5 (Completely)
Q10: To what degree, do you feel the defendant has repaired any harm caused by the incident?	4 (To quite a degree)	4 (To quite a degree)
Q11: To what degree do you feel that you have been re-victimized through your involvement in the process?	1 (Not at all)	(Not at all)
Q 12: Why did you decide/agree to go through the process?	See Table 3	

⁵ The median of a set of data values is the middle value of the data set when it has been arranged in ascending order. That is, from the smallest value to the highest value.

Table 2: Complainants' Responses to Questions 4 Face-to Face Mediations

	2008-09	2009-10
Question 4: What were your feelings about the situation / matter before the mediation, compared to now? What is different?)	<p>54 percent of complainants' responses to question 4 were positive, for example:</p> <ul style="list-style-type: none"> • Wanted to take the defendants to court to teach them a lesson but the process was better because we had more control of the outcome. • Sceptical it would work. So far defendant has kept to JMA. Great financial & emotional relief. 	<p>In 2009-10, 80 per cent of complainants' responses to question 4 were positive, for example:</p> <ul style="list-style-type: none"> • Had no previous involvement. I have now seen the process is well conducted & with good intent. • Thought it was a way out for the offender - but was not the case.
	<p>23 percent of complainants' responses were ambivalent, for example:</p> <ul style="list-style-type: none"> • The situation has improved slightly. • Not much different. Glad defendant was able to acknowledge his actions. 	<p>13 percent of complainants' responses were ambivalent, for example</p> <ul style="list-style-type: none"> • Was not sure of outcome. Still not sure if offender will re-offend. • Still waiting for closure
	<p>23 per cent of complainants' responses were negative, for example:</p> <ul style="list-style-type: none"> • Before hurt & violated. Now depressed & violated. • No different as don't think it was tailored for the problem. 	<p>13 per cent of complainants' responses were negative, for example:</p> <ul style="list-style-type: none"> • Very stressful, disruptive & upsetting. • Same as before, angry.

Question 12 was aimed at eliciting complainants' motivation for participating in the program. It is commendable that in 2009-10, 94 percent of complainants' responses were what was regarded as positive, an improvement on 2008-09 when only 80 per cent of complainants' responses were positive. (The responses for question 12 are shown in Table 3 over page.)



Table 3: Complainants' Responses to Question 12 Face-to-Face Mediations

	2008-09	2009-10
Question 12: Why did you decide/agree to go through the process?	<p>80 per cent of responses to question 12 were positive, for example:</p> <ul style="list-style-type: none"> Once we were fully informed of the process, it was a chance for us to let the defendants know how we felt & to give them a second chance. It was an effective way to collect damages & save taxpayer money <p>Examples of less positive responses included:</p> <p>Because told we could recover what was lost. People pushed myself & family into it.</p>	<p>94 per cent of responses to question 12 were positive, for example:</p> <ul style="list-style-type: none"> Because it is better to offer offender a chance to make good, rather than getting them immersed in the CJS. It can be a revolving door. Defendant had chance to explain actions & I had chance to express feelings. <p>Example of less positive response included:</p> <p>No other choice</p>

Defendants' Responses to Face-to-Face Mediations

People and Trimboli (2007) assert that the literature on participant satisfaction with restorative justice processes both in Australia and internationally consistently reports high levels of satisfaction from offenders. JM staff are to be commended that defendants / offenders in the JM program are very satisfied with the process.

Shapland et al (2008) report that, for adult offenders, there is a significant, positive relationship between the ways in which offenders experience the restorative justice conference and decreased subsequent reconviction. The particular elements were:

- The extent to which the offender felt the conference had made them realise the harm done;
- Whether the offender wanted to meet the victim;
- The extent to which the offender was observed to be actively involved in the conference; and
- How useful offenders felt the conference had been.

In regard to Shapland et al's finding it is notable that defendants in the JM program reported high scores on question 7 (the degree, since the mediation, they believe they understand the effect of their actions on the complainant and their family and friends) and question 8 (the degree to which they believe they had an opportunity to make amends).

Defendants' median responses in 2009-10 improved on what was a high base in 2008-09 (see Table 4 below) for:

- The degree to which they were satisfied with the program;
- The degree to which they felt they were kept informed about progress;
- The degree to which they experienced feelings of regret about the incident;

- The degree to which they believe they understood the effect their behaviour had on the complainant and their family and friends;
- The degree to which they believed they had an opportunity to make amends; and
- The degree to which they believe the process helped maintain their bond with family and friends.

For the remainder of the questions (except questions 4 and 12), defendants' median responses were the same in 2009-10 as they were in 2008-09.

Table 4: Defendants' Responses Face-to-Face Mediations 2008-09 & 2009-10

Survey Item	2008-09 Median Response	2009-10 Median Response
Survey Item		
Q 1: To what degree were you satisfied with the justice mediation program?	4 (Satisfied)	5 (Very satisfied)
Q2: To what degree, do you feel, you were kept informed about the progress of the matter?	4 (Well informed)	5 (Very well informed)
Q3: Would you recommend this service to others?	5 (Strongly agree)	5 (Strongly agree)
Q4: What were your feelings about the situation / matter before the mediation, compared to now? What is different?	See Table 5	
Q5: To what degree, did you experience feelings of regret about the incident?	4 (Quite regretful)	5 (Very regretful)
Q6: To what degree do you believe you accepted responsibility for the incident?	5 (Completely accepted it)	5 (Completely accepted it)
Q7: To what degree, since the mediation, do you believe you understand the effect that his/her actions had / have on the complainant and their family and friends?	4 (Quite a bit)	4.5 (Between a lot & quite a bit)
Q8: To what degree, do you believe you had an opportunity to make amends?	4 (Quite a bit)	5 (A lot)
Q9: To what degree do you believe the process has helped maintain your bond with your family and friends?	4 (Well maintained)	5 (Very well maintained)
Q10: To what degree, do you believe you were treated respectfully by the Justice Mediation Program?	5 (A lot)	5 (A lot)
Q11: To what degree, do you believe you were treated fairly during the process?	5 (A lot)	5 (A lot)
Q 12: Do you believe this matter would have been better dealt with through the court process?	See Table 6	

Question 4 focused on defendants' feelings about the situation pre- and post-mediation. Defendants' positive responses to question 4 improved in 2009-10 on responses in 2008-09 (see Table 5 below).

Table 5: Defendants' Responses to Question 4 Face-to-Face Mediations

	2008-09	2009-10
Question 4: What were your feelings about the situation / matter before the mediation, compared to now? What is different?	<p>44 per cent of defendants' responses to question 4 were positive, for example:</p> <ul style="list-style-type: none"> • Made me realise what I had done to a more detailed extent. • Before mediation was disappointed & embarrassed – after gained new perspective of my actions. 	<p>87 per cent of defendants' responses to question 4 were positive, for example:</p> <ul style="list-style-type: none"> • I saw the other point of view far more clearly. • Feel a lot better now given the chance to apologise. • I acted emotionally, thought I was treated poorly by complainant but hearing other side gave me insight.
	<p>25 per cent of defendants' responses were ambivalent, for example:</p> <ul style="list-style-type: none"> • None. Just glad not have an unnecessary conviction. • I believe some details given by other party were embellished. However what started the chain of events could have been handled differently. 	
	<p>31 per cent of defendants' responses were negative, for example:</p> <ul style="list-style-type: none"> • Thought I was unfairly treated by police service. • Was angry before JM. Now angry & disappointed. Gained insight into justice system. • What I had to say & do to get it settled made me very sad, so many lies were told by the other person. 	<p>13 % of defendants' responses were negative, for example:</p> <ul style="list-style-type: none"> • Unjustified.

Question 12 was designed to elicit defendants' motivation for participating in the program. In 2009-10, 100 per cent of those participants who responded to the survey gave positive responses. Defendants' responses to question 12 also improved in 2009-10 on responses in 2008-09 (see Table 6 below).

Table 6: Defendants' Responses to Question 12 Face-to-Face Mediations

	2008-09	2009-10
Question 12: Do you believe this matter would have been better dealt with through the court process?	<p>82 per cent of defendants responded positively to question 12, for example:</p> <ul style="list-style-type: none"> • No. Court would give resolution but no means of discussion re impacts. • No. Dealt with exceptionally well in JM. • Could have worked out better for one party. That's why JM is good cause it works out better for both. 	<p>100 per cent of defendants responded positively to question 12, for example:</p> <ul style="list-style-type: none"> • No, the issues were discussed far more freely & understandably in this forum. • No, mediation more benefits for all, quickly & father proud again. • No. JM was way to go. Had chance to apologise
	<p>18 per cent of defendants were ambivalent in their responses, for example:</p> <ul style="list-style-type: none"> • No, but only because it would have cost more money. • It would have cost more money & time. The complainant is the one who should be in court. • Maybe, depending on judge's point of view. 	

Complainants' Responses to VIS Mediations

According to the literature, (Sherman and Strang, 2007; Shapland et al, 2007; complainants are usually more satisfied with restorative justice programs that involve face-to-face mediations than other models of restorative justice such as those involving Victim Impact Statements (VIS). These findings are borne out by the results of the JM program's client satisfaction surveys.

Complainants who only participated in VIS JM reported a lower level of satisfaction than complainants who participated in a face-to-face meeting with the defendant.

It is of concern though, that although few in number, complainants' responses in 2009-10 have regressed from 2008-09 for VIS mediations, as shown in Table 7, for the following items:

- degree of satisfaction with the JM program;
- degree to which they felt kept informed about the progress of the matter;
- if they would recommend the service to others;
- whether they had a sense that defendants experienced feelings of regret about the incident;
- whether they sensed defendants experienced feelings of regret about the incident;
- whether they senses defendants accepted responsibility for the incident;
- whether they sensed defendants understood the effect that his/her actions had/have on complainants and their family and friends; and
- degree to which they felt defendants had repaired the harm caused by the incident;

- the degree to which they felt re-victimized by their participation in the JM process. Although there is only a slight regression from a median score of 2 to a median score of 2.5 on this item, it is concerning.

Only on the following two items was there an improvement in complainants' median response rate between 2008-09 and 2009-10:

- whether they believed they had made informed decisions regarding the management of the incident; and
- the degree they felt they were able to express how they were affected by the incident by writing the VIS.

Table 7: Complainants' Responses-VIS 2008-09 and 2009-10 (except questions 4 & 12)

Survey Item	2008-09 Median Response	2009-10 ⁶ Median Response
Q 1: To what degree were you satisfied with the Program?	4 (Satisfied)	3 (Somewhat satisfied)
Q2: To what degree, do you feel, you were kept informed about the progress of the matter?	4 (Well informed)	3 (Fairly well informed)
Q3: Would you recommend this service to others?	4 (Agree)	3 (Neither disagree or agree)
Q4: What were your feelings about the situation / matter before the mediation, compared to now? What is different? Mediation	See Table 8	
Q5: having read the defendant's apology letter, do you have a sense that the defendant experienced feelings of regret about the incident?	4.5 (Between quite regretful & very regretful)	3 (Some regrets)
Q6: Having read the defendant's apology letter, do you have a sense that the <u>defendant</u> accepted responsibility for the incident?	4 (Quite a bit)	3 (Accepted some)
Q7: Having read the defendant's apology letter, do you have a sense that the <u>defendant</u> understood the effect that his/her actions had / have on you and your family and friends?	4 (Understands)	3.5 (Between has some understanding & Understands)
Q8: To what degree, do you believe, you made informed decisions regarding the management of this matter?	4 (Quite a bit)	5 (Completely had a sense of it)
Q9: By writing the Victim Impact Statement, to what degree do you feel you were able to express how you were affected by the incident?	4 (Quite a bit)	4.5 (Between Quite a bit & Completely)
Q10: To what degree, do you feel, the defendant has repaired any harm caused by the incident?	4 (To quite a degree)	2.5 (Between not much & somewhat)
Q11: To what degree, do you feel that you have been re-victimized through your involvement in the process?	2 (Quite a bit)	2.5 (Between not much & I have some sense of it)
Q 12: Why did you decide/agree to go through the Justice Mediation process?	See Table 9	

⁶ Data for 2009-10 is up to 31 March 2010 only.

Table 8 Complainants' Responses to Question 4 & 12 VIS 2008-09 and 2009-10

	2008-09	2009-10
Question 4: What were your feelings about the situation / matter before the mediation, compared to now? What is different?	<p>Positive Responses</p> <ul style="list-style-type: none"> • Before-apprehensive – no consequence. After-Good outcomes. <p>Ambivalent Responses</p> <ul style="list-style-type: none"> • Nil info from employer that we participated in program. • I was angry & upset, but now I hope he realises the impact this situation has had on our family. 	<p>Positive Responses</p> <ul style="list-style-type: none"> • Felt better, able to hear other side. <p>Negative responses:</p> <ul style="list-style-type: none"> • None
Q 12: Why did you decide/agree to go through the process?	<p>Positive Responses</p> <ul style="list-style-type: none"> • 1 respondent said a diversion for genuine offenders who wish to go through avenues for a second chance. <p>Ambivalent Responses</p> <ul style="list-style-type: none"> • 2 respondents said they were told to 	<p>Positive Responses</p> <ul style="list-style-type: none"> • To hear the other side. <p>Negative responses</p> <ul style="list-style-type: none"> • Prosecutors said cost for defendant high & I felt sorry, but never again.

2.2 STAKEHOLDER SATISFACTION

Stakeholders, including magistrates, one judge, the Office of the Director of Public Prosecutions (ODPP), officers from Police Prosecutions Units, police officers and solicitors who have made referrals and/or with whom the program has had contact, were sent a 7 item questionnaire requesting their opinions about various aspects of the program. They were asked to rate aspects of the service on a 10 point scale with 1 being poor and 10 being excellent. The questionnaire is presented in Appendix 3.

Stakeholder respondents rated the service offered by the program overall at a very respectable 8.5. Satisfaction with communication between referrers and program staff was rated at 9. A summary of stakeholder responses is presented in Table 9 in Attachment A. Attachment B shows feedback from the Office of the Director of Public Prosecutions (ODPP).

Comments made by referrers about the program were generally very positive. However, a number of suggestions were made for improving the service.

Expansion of locations in which the service is offered

A major theme in the comments made by stakeholders about the program was that the locations in which the service is offered should be extended; that it should be offered state wide and not to do so was discriminatory. One respondent said that provided participants are prepared to travel, there is tremendous benefit to extending the program as far as possible throughout the State. This respondent added 'I can speak of defendants who have gained a greater insight into the needs of others through their participation in this process.'

One of the objectives of this review is to propose some options for extending locations in which the service is offered. Suggestions made by stakeholders for ways of expanding the service included offering the service on circuit; through local

community groups, and by using technology such as video conferencing, Skype and teleconferencing. The use of technology is taken up in Section 6.

Regarding delivery of the service through local community groups, section 3 outlines the risks associated with the provision of JM services. Using local community groups to provide justice mediations would be quite resource intensive in the long-term when the level of governance mechanisms needed, (monitoring, supervision and other quality assurance processes), are applied. In addition, it is doubtful if the accountability required for conducting a justice proceeding for a government department could be achieved by local community groups. It is considered that the risks associated with having local community groups deliver JM would be unacceptable to the Government.

Lack of feedback about why referrals are not accepted

Another theme in stakeholders' responses was the lack of feedback by the program about why referrals are not accepted and reasons are not disclosed for not proceeding with a mediation.

In instances where matters are not able to proceed because the parties were not able to be contacted or because of previous convictions, the program always discloses the reasons to referrers. It is not unusual for parties to change their minds about participating in JM once they understand what the requirements are, even after they have previously consented to the referral. If a party who declines to participate gives us permission to inform referrers of this, we do so.

However, in most matters, parties are not willing to consent to the disclosure of information that prevented their matter from proceeding through mediation. Perhaps this is because parties fear that this information might hinder their court hearing in some way. Justice mediations are conducted under the *Dispute Resolution Centres Act 1990*. The confidentiality provisions of Section 37 of this act prohibit the disclosure of specific information about why a matter was unable to proceed, unless the parties specifically give their consent to disclosure.

Offence types stakeholders considered suitable for referral that are not currently accepted

Various stakeholders considered the following offence type suitable for referral to JM, including:

- Domestic violence charges;
- Public nuisance, possession of a knife in a public place etc., (The stakeholder who made this suggestion noted that these offences are often associated with other more serious charges that are being mediated; and that it makes sense to also mediate the lesser charges at the same time.);
- Arson / attempted arson. (This stakeholder noted that depending on the circumstances, if the outcome of a long running dispute and compensation is achievable, these charges may be appropriate.); and

- Going armed so as to cause fear. (The stakeholder who made this suggestion noted that a blanket rejection of this offence fails to recognise the breadth of this conduct.)

Acceptance of these offence types will be considered and advice taken as to whether they are suitable for JM. Consideration could be given to accepting the offence types noted as non-diversionary referrals, either as Court Pre-Sentence Referrals, Court Sentencing Orders or Post-Sentence Offender & Post-Sentence Victim Referrals, as this may be a way of obtaining some of the positive outcomes of face to face meetings between complainants and defendants noted in section 2.

Recommendation 2

It is recommended that consultation occurs with the judiciary, Police Prosecution Units and the ODPP to ascertain their views about accepting referrals of the following offence types, possibly as non-diversionary mediations:

- **Domestic violence charges**
- **Public nuisance, possession of a knife in a public place etc., and**
- **Arson/attempted arson in certain circumstances, such as where the conclusion of a long running dispute and compensation is achievable.**
- **Going armed so as to cause fear, in certain circumstances.**

Issues about the criteria the program uses to decline a referral

Regarding this question, one stakeholder noted that while some clients have extensive criminal histories, the last offence was many years ago; others may have no like offence despite extensive history.

While the JM program is meant for first time offenders, there is some flexibility and some leeway is currently given if the last offence was many years ago, and it is not a like offence. However it is unlikely referrals would be accepted for offenders with an extensive criminal history – except in very unusual and extraordinary circumstances.

Making restitution / compensation payable through SPER

One respondent suggested that because changed circumstances sometimes created an inability to pay restitution, this could be resolved if the payment went through the State Penalties and Enforcement Register (SPER).

This has been investigated previously. It would require the program to issue a fine to the defendant and if the fine was not paid on time, issue an infringement notice that could then go to SPER for collection. This would require the program to collect monies on behalf of the complainant as well as changes to the *State Penalties Enforcement Act 1999* and the *Dispute Resolution Centres Act, 1990*. While legislative amendment is achievable, it takes a long time. The most difficult issue is that collecting monies and issuing infringement notices would be onerous and the program is not resourced to do this.

Timeliness of service

One respondent commented on the timeliness, friendliness and efficiency of the service. Two respondents said they would like a more 'speedy' service. These people did note however that more staff are needed to remedy this.

The timeliness performance measure for JM is the average number of days between when a file is accepted and the mediation is conducted. In 2009-10 the target was 50 days. Performance on this measure in 2009-10 was 56.3 days. (The timeliness measure has changed for 2010-11 to percentage of matters finalised within target timeframes. The new target is 70% within the timeframe of 65 days). When the thorough process that is undertaken, the fact that it is often difficult to contact parties, even when the correct contact details are given by referrers, the wait for medical reports, and the need for parties to obtain legal advice are considered, stakeholders can probably appreciate why some matters take a long time to conclude.

Lack of awareness of service

Several comments were made about there being a lack of awareness of the service particularly in the legal profession and the Queensland Police Service. One respondent noted that the service and the community would benefit greatly by there being greater awareness of the program in the police service; adding 'We find that in the majority of cases when police are informed of the nature of the service they have been enthusiastic. However, on many occasions they are completely, or largely, unfamiliar with the service.'

Justice Mediation Officers working in locations currently resourced to provide a service, promote the program to as many stakeholders as they are able. However, because police work shifts, it can be difficult to reach as many as would be desirable. Justice Mediation Officers also need to consider raising expectations about service availability if demand is already high, and they do not have spare capacity to manage increased referrals.

If, and when, the locations in which the service can be offered are expanded, promotion will occur to stakeholders in these areas. To do so before resources are available to provide the service would unnecessarily raise expectations.

2.3 RE-OFFENDING RATES

There is now some research which supports Braithwaite's theory that re-integrative shaming will result in less offending, at least for some offenders (Sherman and Strang, 2007; Shapland et al, 2008). This evidence is however seemingly contradicted by Jones (2009) who found no evidence for Forum Sentencing⁷ participants for reduced reconvictions of offenders within one year of being sentenced. This apparent contradiction may be explained by a whole host of different variables in the different programs studied.

The NSW Attorney General's Department (2009) however noted that there is only limited evidence that restorative justice processes produce lowered levels of recidivism.

⁷ Forum Sentencing is a NSW program which uses a conferencing model similar to that used by the Justice Mediation program. It is for offenders between 18 and 24 years.

Braithwaite (2007) himself has more recently stated that modest direct effects in reducing re-offending are what is to be expected, claiming that most restorative justice theorists predict that the direct effects of interventions of an hour or two would not be large. Moreover, Braithwaite cites Bonta et al's 2006 meta-analysis as having found the recidivism effect was notably higher in second generation post 1995 restorative justice programs (average 12 per cent reduction in recidivism). Post 1995 programs are reported to have a high adherence to restorative justice principles and a highly structured model (Rugge and Scott, 2009).

The NSW Attorney General' Department report quoted Polk, Adler, Muller and Rechtman (2003) commenting that variables which present problems in the measurement of recidivism as being:

- The presence of uncontrolled selection effects;
- The faulty conception of the comparison base, especially the need in the future to compare conference persons with those experiencing other forms of diversion including 'no action'); and
- Exceptional problems of measurement in terms of the key outcome variable.

The current assessment suffers from most of these methodological problems⁸. **It is for this reason that the re-offending rates found in this review of the JM program are indicative only since there was no sample matched for age, gender, ethnicity or type of offence.** It should also be noted that re-offending rates are also undoubtedly under-estimated owing to the limited observation period for re-offending.

A list of defendants who had undertaken JM between 1 January 2009 and 31 December 2009 was sent to the Courts Capability Development Unit, Queensland Department of Justice and Attorney-General. This unit was contracted by the DRB to identify which defendants had committed another offence post the date of mediation. As well as defendants' names, the list included identifying information, date of offence for which the person was referred for JM and the date on which the mediation was conducted. Because of the confidentiality provisions of the *Dispute Resolution Centres Act, 1990*, and privacy legislation, staff of the Courts Capability Development Unit who extracted re-offending information from the Queensland Wide Interlinked Courts system, were sworn to the DRB's Oath of Secrecy prior to undertaking the work.

There were 390 defendants listed which was subsequently reduced to 384. (Two were immediately de-listed because their dates of birth had not been recorded. Another four were excluded from the calculations. These four did re-offend, but no evidence was offered by the prosecution at the hearing and presumably the charges were dismissed.)

⁸ The DRB would need to seek additional resources to conduct a methodologically rigorous assessment of the re-offending rates of Justice Mediation program defendants / offenders.

The overall indicative re-offending rate for the four locations in which the service is offered was 8 per cent (n = 384; mean no. of months between date of mediation and date database checked to check for re-offence = 7.5 months; mode = 11 months). Re-offending rates across the locations ranged from 1.5 per cent in one area to 10.4 per cent in another area.

It has been suggested that one possible reason for the 1.5 per cent re-offending rate at one location is the high number of mediations at that location that have support persons in attendance for both the defendant and complainant.

Recommendation 3

The practices used in the location with a 1.5 per cent re-offending rate be observed to find out if there are any differences in practices when compared with the other locations which might account for this low re-offending rate with a view to these practices being adopted in all locations.

Of those who re-offended, 42 per cent were between 17 and 21 years of age and another 39 per cent were between 22 and 26. This finding is partly supported by Payne (2007) who found that the probability of being a recidivist is greatest between the ages of 17 and 21 years, and decreases into adulthood.

There was much inconsistency between program locations in listing the gender, age and ethnicity of defendants and type of offence. Only one location listed the gender for all defendants: there were 17 female defendants and 50 males at this location. The only defendant who re-offended after the date on which the mediation was conducted in this location was male.

In another location only the gender of those defendants who re-offended was listed: Of the 17 defendants who re-offended in this location, 15 were male and two were female. Three of the 17 defendants who re-offended were recorded as Indigenous. For almost half (47 per cent) of the defendants who re-offended in this same location, the complainants did not meet in a face to face mediation but rather submitted a victim impact statement (VIS).

Although far from conclusive, this last statistic is one to be watched. It is of course always the complainant's choice about whether to meet face-to-face with a defendant. However, if a trend were to become apparent that defendants who participate in JM via a complainant's VIS are statistically more likely to re-offend, the cost-benefit of offering the program to parties where the complainant chooses not to participate, should be reconsidered. Alternatively, practices for VIS mediations could be changed, for example, a complainant's support person could be requested to read the VIS to the defendant at the mediation.

Seven (41 per cent) of the defendants in this same location had a previous criminal history. This is another statistic which needs to be watched, particularly since Payne (2007) reports that approximately 50 per cent of adults who police arrest will have been arrested at least once in the past 12 months. Although as a general principle the Justice Mediation Program is for first time offenders, sometimes the offence for which the referral is made is very different from the previous conviction. If this conviction

occurred some years ago, referrals for defendants with minor criminal histories are accepted. If there is a trend that defendants with criminal histories are statistically more likely to re-offend, consideration may need to be given to amending practices.

The lack of consistent collection of relevant data seriously detracts from the DRB's capacity to rigorously analyse re-offending trends and has led to Recommendation 4 regarding data collection. This is particularly important since Sherman and Strang's (2007) review showed that restorative justice programs work differently on different kinds of people. Sherman and Strang reported that rigorous tests in diverse samples have found substantial reductions in repeat offending for both violence and property crime; although in one rare circumstance, a small sample of Aborigines in Canberra, Australia, higher rates of repeating offending were observed following restorative justice intervention than conventional criminal justice.

In further support of Recommendation 4 it has recently come to light that the National Justice CEO's Group, in discussions with the NSW Bureau of Crime Statistics and Research (BOCSAR), considers the minimum desirable data to be collected about restorative justice programs is:

- Age
- Gender
- Indigenous status
- Principal offence
- Number of concurrent offences
- Number of prior convictions
- Whether previously imprisoned
- Date dealt with by the sentencing court
- Time spent in custody from date dealt with to end of follow up period

The latter two data sets may need to be negotiated with the National Justice CEO's Group or BOCSAR since they are not appropriate for the diversionary referrals dealt with by the DRB's JM Program. Alleged offences which are referred are probably too minor for any time to be spent in custody prior to the mediation. Further, justice mediation agreements usually contain a clause whereby both the complainant and the defendant request the prosecutor to withdraw the matter from court, and this request is usually agreed to.

Recommendation 4:

It is recommended that information and data collection, recording and management be standardised for the purpose of statistical comparison:

- **demographic details (age, gender and ethnicity particularly Indigenous status)**
- **principal offence,**
- **number of concurrent offences,**
- **number of prior convictions,**
- **whether previously imprisoned, and**
- **whether the mediation was a face-to-face meeting between the defendant and complainant or the complainant submitted a VIS**

It is further recommended that if necessary, the database in which case information is recorded be amended to facilitate the easy collection and collation of this data.

Recommendation 5

It is recommended that once the data noted in recommendation 4 has been collected for 2 years, a university be commissioned (resources permitting) to undertake a methodologically rigorous study of the effectiveness of the Justice Mediation program in collaboration with the DRB.

By no means is all of the data noted in recommendation 4 ordinarily supplied by referrers. In order to facilitate the disclosure of this justice information to the JM program, it would be advisable to develop a Memorandum of Understanding between the department and the Queensland Police Service in accordance with section 13 of the *Justice and Other Information Disclosure Act 2008*.

Recommendation 6

It is recommended that in accordance with section 13 of the *Justice and Other Information Disclosure Act 2008* negotiations commence for the Director-General, Department of Justice and Attorney-General enter into a written arrangement with the Commissioner, Queensland Police Service for the electronic transfer to the Justice Mediation program of the following information:

- **copy of the CRISP report or court brief (QP9), including charges for which the defendant / offender is being referred for justice mediation;**
- **demographic details (age, gender and ethnicity particularly Indigenous status);**
- **principal offence,**
- **number of concurrent offences,**
- **number of prior convictions,**
- **whether previously imprisoned.**

2.4 AGREEMENT AND COMPLIANCE RATES

In 2009-10 the JM program achieved an agreement rate of 99 per cent. This result is not surprising given the work that goes into assessing the eligibility and then the suitability of the matter for mediation. In essence, unsuitable matters are weeded out before a mediation takes place and returned to the referrer to manage.

Defendants' compliance rate in 2009-10 was 100 per cent. Compliance rate refers to the percentage of defendants who honoured all terms of their agreement with the complainant.

3.0 PROGRAM EFFICIENCY

3.1 WORKLOAD ANALYSES

The purpose of this component of the review was to identify reasonably accurate information about the workload of staff at one point in time. The information could then be extrapolated by reference to statistical trends to inform management about the workloads at other points in time.

The methodology included:

- Developing business process maps in consultation with staff;
- Using these maps to identify a coded list of tasks which were then aggregated to activities (the list is attached in Appendix 4);
- A data collection form (attached in Appendix 5) was designed and given to staff, with the coded list of tasks, to complete for the month of February, 2010;
- The data was collated and a workload indicator calculated by dividing the total time taken for activities by the quantum of business completed;
- The workload indicator was then put into a formula to calculate the variance between the actual staff available in the month in Full Time Equivalents (FTEs) and the output for the month also in FTEs. The worksheet used to analyse the data and calculate the staff variances is attached at Appendix 6;
- Other data input into the analysis included the number of working days in the month, leave taken, incomplete business brought forward from the previous month, the volume of business received in the month, the volume of work completed in the month, the volume of work carried forward to the next month, and the year to date volume of work completed.

The results of the workloads analyses show that for the month of February 2010 the staff variance in one location is -0.11 FTEs (understaffed by just over half a day per week); for the second location the variance is +0.05 FTEs (overstaffed by a quarter day per week); for the third location the variance is + 0.18 FTEs (overstaffed almost one day per week); and for the final location the variance is 0.00 FTEs meaning that for that location in the month of February the staffing allocation was exactly right.

The average workload indicator (hours per activity) averaged across the four locations for completing one case from receipt of the initial referral to monitoring that the defendant complied with all clauses in the agreement and closing the case, was 11.5 hours. When the outlier was excluded, the average time per case completed was about 10 hours.

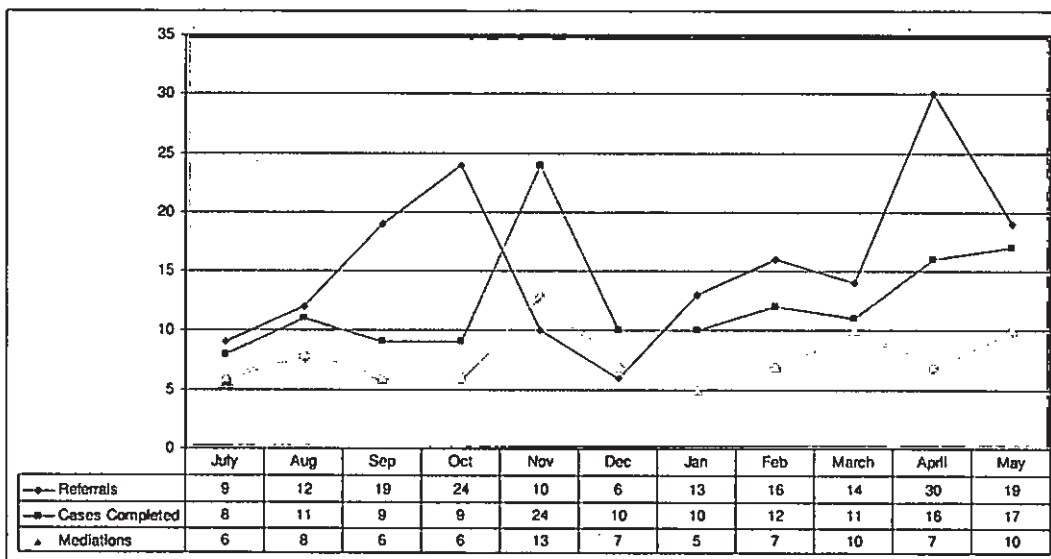
3.2 ESTABLISHMENT BUDGET AND STAFFING LEVELS

The appropriation the DRB receives does not cover all of the costs of the program. Some positions are funded from revenue raised in other service areas such as training services and fee-paying mediations and facilitations. These positions are necessarily temporary and may not be assured from month to month.

Based on having completed 687 cases to 31/05/2010, it is estimated that 750 cases will be completed in 2009-2010 at a total cost of \$511,200. The average cost was \$682 per case completed. This compares favourably for two restorative justice programs⁹ in the UK (Thames Valley and Northumbria) where the average cost per case referred¹⁰ was reported to be £490 GBP (\$847 AUD) (Shapland et al, 2008).

While there are always peaks and troughs in referral rates, there appears to be an emerging trend towards increasing referrals in Location 1. Increased referrals lead to increased mediations and case completion rates. (See Figure 1). If a workloads analysis had been done in November, April or May, this location's negative staff variance would have been more serious. However, since November referral rates have dropped at this location.

Figure 1: Referrals by Month in Location 1 2009-10



Justice mediation staff and management have a view that the program should be adequately resourced in existing locations before any expansion of locations occurs.

⁹ The London site was excluded from these calculations on the assumption that the London costs of premises (which were included in Shapland et al's costing) would be extremely high.

¹⁰ The average cost per case referred is presumed to be closest to the average cost per justice mediation case completed.

The risk in not doing this is staff burnout and high turnover rates, loss of credibility of the service with stakeholders, and potential for procedural errors.

3.3 BUSINESS IMPROVEMENTS

As reported in the methodology for the workloads analyses, business process maps were developed. These maps were examined and amended to improve efficiency and effectiveness of service delivery. These will continue to be reviewed and amended from time to time. To this end, a stakeholder submitted an amended map and this is submitted as Attachment C.

Recommendation 7

It is recommended that the Business Process Map in Attachment C be assessed by staff for further improvements in efficiency and effectiveness of service delivery.

Other business improvements that could improve efficiency include:

- An IT system that enables referral forms and information from police CRISP reports to be received electronically (instead of by facsimile which is the current system) and then migrated directly into the data base, once the department's security issues are overcome. This should cancel the need to re-enter data into another template.
- Automated letter writing and 'smart' templates which would be able to draw information out of the data base rather than having to be manually typed in every time.
- A file management tool that shows in a more visual way what stage a file is at in terms of case management and which would give a prompt if a file has been inactive for some time. When this has to be done manually, it increases the risk of oversights.

Recommendation 8

That the adoption of more efficient business systems be considered for inclusion in the Branch's 5 year plan (under development). This includes:

- **an IT system that allows the electronic transfer and migration of information directly into the data base;**
- **automated letter writing and 'smart' templates enabling drawing information directly from the data base; and**
- **a more visual file management tool.**

4.0 EXPANSION OF LOCATIONS

The DRB is aware that there is considerable demand for JM services right across the State. The source of information about unmet needs is as reported by stakeholders and/or areas and/or courts which have referred matters in the past. The locations in which there are reported to be unmet demand for JM and the estimated number of referrals per year are shown in Table 9 below.

Table 9: Unmet Demand

Location	Estimated no. of Referrals per Year
South Qld	
Wynnum	10-12
Sandgate	12-20
Toowoomba	20
Noosa	Not available
Caloundra	Not available
Gold Coast	
Coomera Police District	12-24
Beenleigh	Significant volume
Wide Bay	
Hervey Bay	
Bundaberg	
Maryborough	
Central Qld	
Rockhampton	2 in 3 months = approx 20 per year
Gladstone	10
Blackall	1 in 3 months = approx 10 per year
Emerald	1 in 3 months = approx 10 per year
Mackay	Not available
North Qld	
Ayr	Not available
Charters Towers	Not available
Mt Isa	Not available
Ingham	4
Palm Island	4
Far North Qld	
Mareeba	Not available
Cook & Horn Islands	Not available
Kowanyama	3
Mt Garnett	3
Innisfail	6
Cooktown	3

Any expansion of locations will occur incrementally, starting with one location and expanding to other locations as implementation problems are overcome. One of the major issues to be dealt with is how to fund the delivery of services in more locations.

No specific recommendation is made about which location/s into which the program should be expanded as this will be dependent on the results of trialling a number of different alternative service delivery models (see next section on Alternative Service Delivery Models).

Recommendation 9

It is recommended that specific location/s into which the program be expanded be reconsidered in consultation with courts after the results of the trials of alternative service delivery models are available.

5.0 ALTERNATIVE SERVICE DELIVERY MODELS

5.1 VIDEO-CONFERENCED AND / OR SKYPED JUSTICE MEDIATIONS

As discussed previously, stakeholders' suggestions for ways of expanding the service included offering the service by using technology such as video conferencing, Skype and teleconferencing

The discussion in section 1.2 of the assessment of matters for eligibility and then suitability for JM should have demonstrated that the assessment process is somewhat complex and of critical importance to the success of the program. (For a more complete understanding see Appendix 7).

Up to the point of interviewing defendants, it is feasible to undertake the assessment by telephone / video conference, although if complainants are anxious about meeting face-to-face with the defendant, it is better to interview complainants in person to enable staff to properly gauge their level of understanding of the process and what is required of them; and to offer the emotional support often needed by anxious complainants. Some complainants seem to prefer face-to-face interviews to enable them to feel 'heard'. Other complainants prefer a telephone interview, particularly those from overseas and interstate; and some do not want to spend more of their time on the aftermath of the incident.

Because of the critical nature of thorough assessment of offenders to successful outcomes, the JM program much prefers to interview defendants face-to-face. This is in part because it is much easier to assess the genuineness of remorse by observation of non-verbal behaviour.

Because complainants are generally more satisfied with the process and because the aims of restorative justice are more effectively achieved through face-to-face meetings, face-to-face mediations with both the defendant, the complainant, and their respective support persons present, are the preferred method.

It is hoped that outlining the JM process will explain to stakeholders the reasons why offering a JM process via video-conference or Skype may not achieve the full restorative benefits expected of justice mediations. That being said, preliminary video-conferenced interviews indicate that it could be useful to trial conducting video-

conferenced and/or Skyped interviews and mediations, and/or offering mediations on circuit; and to compare the results in terms of client satisfaction, re-offending rates and resources required.

Recommendation 10

It is recommended that video-conferenced and/or Skyped interviews with complainants and defendants and mediations and/or offering mediations on circuit, be trialled, after the provision of this service is costed, staff are properly trained and the practicality and confidentiality of skyped interviews/mediations are assessed. It is also recommended that the results of any trial in terms of client satisfaction, re-offending rates and resources required be compared with the usual process.

5.2 CIRCUIT APPROACH

Another stakeholder suggestion has been to provide justice mediations via courts' circuits. This approach is also worth trialling. However there are many logistical details to be investigated, such as the length of time the circuit spends at each court; how many courts in the particular circuit have a demand for JM; if there is space for JM staff on circuit transport; if magistrates are able to predict in advance if there will be a matter eligible to be part of the JM program, and most importantly, the cost of sending staff on circuit with the courts.

Recommendation 11

It is recommended that the logistics and cost-effectiveness of conducting the Justice Mediation program on circuit be investigated with a view to testing the feasibility of this approach for expanding the locations at which justice mediation can be provided.

5.3 CONTRACTING THE PROGRAM OR PARTS OF IT TO CASUAL JUSTICE MEDIATORS

The DRB has 150+ nationally accredited mediators throughout Queensland. In most regions there are some who have also been trained in conducting justice mediations. Most have had no recent practice because the program has been operated by either permanent or temporary staff, but not by casual mediators. In addition, these casual mediators have not been trained in assessing matters for eligibility and suitability.

Nevertheless, this is an attractive alternative service delivery model because casual staff would only be employed in the specific locations where demand for justice mediations required more resources. However there are some disadvantages.

If casual justice mediators were to be employed to conduct the program from referral to completion of the mediation, they would need to be trained in assessing matters. They would also need to be supervised and mentored by an experienced JM Officer. The cases they are assigned would also need to be managed and monitored by a JM Officer for a considerable period of time until program management became confident

of their competence. This supervision and monitoring would take at least 50 per cent of Justice Mediator Officer's time. This would take away from the time they currently use in conducting the program. It would also require the development of checklists and protocols.

An alternative is to employ casual justice mediators to conduct only the mediation. However, as previously noted, the actual mediation is the smallest part of the operation, and would therefore not save much of the time of permanent staff. Permanent staff would still have to provide the initial eligibility assessment and the more complex and time consuming suitability assessment.

Most staff agreed the best approach is to use a combined/flexible approach, dependent to some extent on the nature and complexity of the case, whereby the initial, eligibility assessment would be done by Dispute Resolution Centre (DRC) staff. In some cases the file would then be handed over to a casual justice mediator to complete up to agreement stage. In other cases, the whole assessment would be done by DRC staff with casual mediators only doing the mediation.

Recommendation 12

It is recommended that this latter combined / flexible approach be adopted to resource the expansion of locations, possibly combining this approach with the circuit approach (if the logistics of the circuit approach prove practicable and cost-effective); and the use of video-conferencing/Skype if the results of a trial of this show the program's outcomes can be maintained.

6.0 RISK ANALYSIS

Although risk management was originally not within scope of this review, as stated previously, a stakeholder has raised the issue of the inherent risks associated with the JM program.

It is thought that because current JM staff are mostly very experienced, they intuitively understand and manage these risks. However, eventually more mediators will need to be trained to resource any expansion of the program. These people will necessarily be less experienced and this could expose the program to unacceptable risks.

Table 10 identifies risks in addition to those included in the department's risk register.

Table 10: Risks associated with the program

	Description of Risk
Client based risks Working with defendants	<p>Increased likelihood of working with clients who:</p> <ul style="list-style-type: none"> • have at least on one occasion exhibited poor anger management and/or violent behaviours • have unknown tendencies towards poor anger management and/or violence (e.g., as first offenders or young offenders, it is much harder to assess the likely existence of there being deeper criminal pathologies or anti-social tendencies; • have known or suspected tendencies towards poor anger management and/or violence; • have documented histories (including sometimes criminal histories) relating to poor anger management and/or violence; • take personal offence when their matter is assessed as unsuitable.
	<p>Increased likelihood of working with clients who:</p> <ul style="list-style-type: none"> • may have known/documentated mental health issues; • may have unknown/undocumented mental health issues.
Working with complainants	<ul style="list-style-type: none"> • Risk to the other party and the reputation of the program involved in mishandling of personal information are increased if parties inadvertently become aware of identifying information or contact details of each other.
Working in a mediation session with both complainant and defendant	<ul style="list-style-type: none"> • Observation of new and previously unwitnessed client attributes at any stage of the mediation process requires staff and mediators to continually assess and manage risks throughout the process. Risks associated with not intervening, pausing and/or terminating the session might include increased stress or trauma for participants and in the worst case, suicide. • Observation of the defendant using subtle ways of attempting to re-victimize the complainant requires intervention.
Process based risks	<ul style="list-style-type: none"> • Significant risks if assessment of suitability is comprised in any way, for example, if key elements are not assessed or remain unknown such as: <ul style="list-style-type: none"> • Defendant’s criminal history, • Defendant’s previous involvement in justice mediation, • Any court orders such as DVOs. • Behaviours and attitudes of parties demonstrated through intake and interviews may dramatically change during the mediation session when parties are in the same space for the first time following a criminal incident • The range of consequences and risks associated with a complex matter, such as legal, procedural, emotional/psychological, gauging a fair outcome, gauging other substantive dimensions and the reasonableness of claims, may be difficult to accurately assess and gauge • The risk of failure to exercise due diligence, for example, through properly assessing a matter and identify, and managing risks, especially if time constraints or workflow pressures exist, or if appropriately experienced staff are not available to assess the matter. • Because the assessment of justice mediations involve much more contact between justice system officials and external legal practitioners there is a need: <ul style="list-style-type: none"> • to be mindful of protocols and procedures in conversing, corresponding and record keeping related to engagement with legal & justice system professionals; and • for defensible, accountable and transparent decision making and record keeping in order to respond to complaints, Ministerial/judicial interest, investigations/inquiries, as through the Ombudsman’s Office. • The risks associated with bad faith bargaining are high. The potential for misuse of information shared and exchanged through the justice mediation process include: <ul style="list-style-type: none"> ○ Fishing exercise to potentially inform subsequent legal proceedings, ○ Creation of embarrassment, defamation or other harm, ○ Potential negative impacts in the event of covert tape recording, ○ Agreements that are ambiguous or ineffectual in structure and content,

	<ul style="list-style-type: none"> • The complexity of the emotions of shame; the extreme care that needs to be taken by the practitioner to ensure shaming is reintegrative & not stigmatizing; and the difficulty in predicting how defendants will interpret being shamed, no matter the intentions of the practitioner (Harris, N and Maruna, S. 2006 b).
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Table 10 identifies a considerable number of additional risks associated with the program, some of which could have serious consequences for clients, staff and the department. It is suggested that action to control the risks could include a checklist of issues to be aware of when assessment and mediation are conducted.

Recommendation 13

12. It is recommended that strategies are developed to manage the risks noted in Table 10, categorised as client based risks, and process based risks. Strategies should include identification of any existing controls, the likelihood and consequences of the risks identified in Table 10, a risk rating, action and timeframe; and that these strategies should be added to the department’s risk register.

7.0 ORGANISATIONAL STRUCTURE

This review of the Justice Mediation Program has further highlighted that increasingly complex workloads of DRB staff and the related supervisory and management responsibilities require some modifications to DRB’s organisational structure that impact more broadly than just the JM Program.

Various options for an amended organisational structure have been discussed with DRB staff and feedback received on earlier drafts has been incorporated into this proposal. The amended structure will become part of the DRB’s soon to be developed five year business plan. Some of the changes can be implemented immediately – others, such as expansion of justice mediation services to more locations, can be implemented as demand for these services increase and resources become available.

The following considerations have been taken into account in the proposal of a new organisational structure for the Dispute Resolution Branch (DRB), the:

- changed workloads in some offices (JM and DRCs) and the need for more equitable staffing allocation to reflect those new workloads;
- need for specialist knowledge in the branch provided by a dedicated Policy / Project Officer;
- need for greater support for JM Officers at a regional level;
- need for streamlined operational management of all DRB services in each region;
- regionalisation of DJAG services;

- impact of QCAT on SQ DRC and, to a lesser extent, the other 5 DRCs;
- need to separate responsibilities in terms of *case management / client service* and *service and resource management and development* by the re-designation of some positions;
- In relation to *case management / client service* duties, it has been assessed that DRB is currently sufficiently staffed (in terms of permanent and current temporary positions) to manage current case management / client service workloads. This assessment includes workloads analyses; examination of the impact of QCAT on the SQDRC and the anticipated reduction in SQ QCAT mediations from November 2010). This will be monitored.
- However, in relation to *service and resource management and development* capability, a deficit has been identified as well as the need for a different staffing configuration to more effectively manage the increased number of people and their changed workloads and the changing demands on DRB.
- The excessive and inequitable workload of the SQDRC Coordinator, the heavy workload of the Practice Manager and the long overdue re-classification of the Administration Manager's position.

In order for the DRB to explore the options of expanding the Justice Mediation Program, it must be tabled that any expansion to a new location will require the DRB to secure extra funding. However, determining appropriate organisational structures for the Dispute Resolution Branch, and the Dispute Resolution Centres, can enhance the effectiveness of the Justice Mediation Program and serve as a starting point for its eventual expansion. It is unrealistic that a cost neutral option can be found when trying to best determine the appropriate staffing numbers and classifications within the current structure. Therefore DRB is seeking to best utilise its current resources, and self-funded investment in further resources to determine a best systems approach to service delivery.

The DRB is currently well represented around Queensland through its six regional Dispute Resolution Centres. An organisational structure that allows for greater integration of Justice Mediation staff within the Dispute Resolution Centres will provide them with greater support, career opportunity, leadership, accountability, and systems and process management and development. An approach is to build on the capabilities of the Centres by amalgamating civil and criminal services under the one regional Dispute Resolution Centre structure.

This approach requires the up-skilling of staff in the suite of services offered by the DRB. An investment of this nature will translate to greater flexibility in the workforce and a greater opportunity to broaden the net of serviceable locations.

It must be noted that the skills involved in civil and justice mediations are similar, but the knowledge involved in justice mediation, particularly in the assessment phases, is different. There are also greater risks involved in the justice mediation process. This is why there needs to be an AO5 Justice Mediation Officer monitoring and overseeing justice mediation processes in the regions which offer JM services. Where a civil

intake officer has developed the knowledge and skills required for justice mediation, and is able to practise justice mediation regularly enough to maintain their knowledge and skills, movement between the two programs is desirable, both for career progression and for gaining efficiencies in the DRC.

A greater emphasis needs to be placed on determining, or separating, appropriate management responsibilities and clarifying what is required in terms of case management / client service, as compared to service / resource management and development.

Scope of the positions identified has been illustrated further in this document.

The concept behind the re-structure stems from an identified need to streamline DRB services and create a clear structure for management of services in all regions. Complications to achieving this are most apparent in the SQ region, where workloads are significantly higher and where the Justice Mediation Program on the Gold Coast operates at a distance from the SQ DRC.

In the interim - until it can be identified that another DRC is required, and funding is available to establish a DRC on the Gold Coast - amalgamation of the SQ DRC / JM SQ / JM GC into one DRC can be formalised. This is achieved by supporting current teams with re-designation of some positions, clearer reporting relationships, providing for officers at the client service level to be supported in the administration of matters, as well as through a dedicated officer to support in case management.

The introduction of an AO6 DRC Coordinator for all DRB services in the SQ region, along with an AO6 Policy / Project Officer (0.6 x FTE) minimises workloads of a service / resource management type and narrows the scope of duties for the AO5 Civil Mediation and Justice Mediation Officers so they can focus on the increasing case management / client service duties.

Extension of justice mediation services to other regions in Queensland, currently outside the areas that employ a Justice Mediation Officer, is dependent on the results of a series of pilot projects recommended earlier in this report. These pilots include assessment of the viability of videoconferencing, mediator management of files and/or hybrid models of restorative justice practice enabling the separation of intake (preparatory interviews for suitability) and the mediation itself.

The proposed organisational structures for DRCs are presented on the following pages, together with the current structures. The new position of South Qld DRC Coordinator (AO6) is redesignated from the Justice Mediator Coordinator position; and that of Civil Mediation Officer, South Qld, (AO5) is redesignated from the position of South Qld DRC Coordinator (AO5). Funding is therefore available to fill these positions immediately on a permanent basis.

The position of Justice Mediation Officer, South Qld – Brisbane (AO5) and Intake Support Officer, South Qld, are new positions and can therefore only be filled as self-funded revenue is available. However, the DRB has been self-funding the equivalent of two AO4 JM Intake Officers in Brisbane so one of these positions can be upgraded to the Justice Mediation Officer, SQ - Brisbane (A)5).

The DRC Coordinator, North Qld (AO6) is proposed to be re-classified from the position of DRC Coordinator, North Qld (AO5) and can be filled as self-funded revenue becomes available. The rationale for re-classifying this position is that it becomes responsible for justice mediation as well as civil mediation services in the region.

Recommendation 14

It is recommended that the proposed structure as presented on the following pages be implemented in the following order:

- | | |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>i. DRC Coordinator, SQ (AO6)</p> | <ul style="list-style-type: none"> • There are no funding implications for the DRC Coordinator, SQ (AO6) or the Civil Mediation Officer, SQ (AO5) as these positions are re-designated from the positions of the Justice Mediation Coordinator (AO6) and DRC Coordinator, SQ (AO5) respectively. |
| <p>ii. Civil Mediation Officer, SQ (AO5)</p> | <ul style="list-style-type: none"> • Neither are there any displacement issues for these positions since the Justice Mediator Coordinator position is vacant and the occupant of the DRC Coordinator, SQ (AO5) is acting. However, it has been a long term acting arrangement. |
| <p>iii. Intake Support Officer, SQ (AO3 x 0.6)</p> | <ul style="list-style-type: none"> • The position of Intake Support Officer, SQ (AO3 x 0.6) is currently filled on a temporary basis and is funded by revenue raised. |
| <p>iv. Justice Mediation Officer, SQ- Brisbane (AO5)</p> | <ul style="list-style-type: none"> • This position is a new one. An existing self-funded temporary AO4 position will be upgraded. It will continue to be funded from revenue raised. |
| <p>v. DRC Coordinator, NQ (AO6)</p> | <ul style="list-style-type: none"> • This position will be a re-classification of the DRC Coordinator, NQ (AO5) position. Re-classification of the position is justified by the increase in responsibilities created by the integration of civil and criminal mediation services. |
| <p>vi. Policy Officer (AO6 x 0.6)</p> | <ul style="list-style-type: none"> • This position is a new one and will not be filled until revenue is available to fund it. |

SCOPE OF POSITIONS

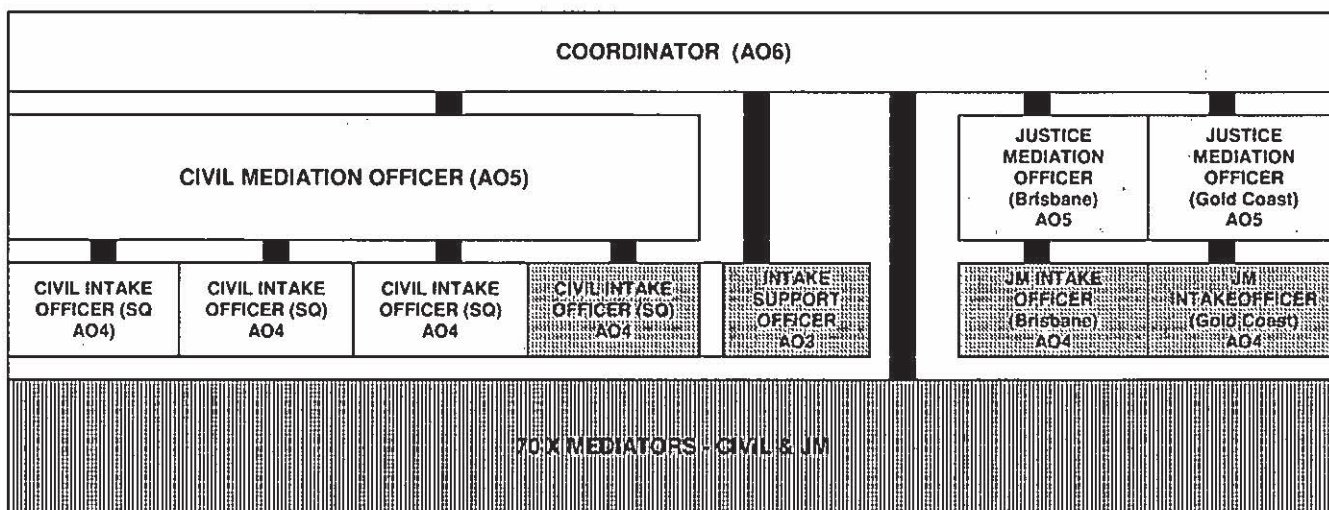
TITLE	CLASSIFICATION	SCOPE	REPORTS TO
DRC Coordinator* <i>* In regions where JM is not provided the DRC Coordinators designation is A05</i>	A06	<ul style="list-style-type: none"> • lead DRB services in their region • prepare regional statistics for reporting to DJAG (through DRB) • design / implement best practice systems & processes for the provision of alternative dispute resolution services • manage the resources of the DRC • provide detailed complex advice on civil and criminal case management • stakeholder engagement 	Executive Manager (A08) or Practice Manager (A07)
Civil Mediation Officer (SQ DRC only)	A05	<ul style="list-style-type: none"> • manage effectively & efficiently the case load of the Civil Mediation Program in their region, delegating where appropriate • support the CM Intake team in providing effective and efficient civil processes in their region • assess matters for suitability • work closely with the DRC Coordinator in providing a civil mediation service • conduct referral training as required 	DRC Coordinator (A06)
Policy / Project Officer	A06	<ul style="list-style-type: none"> • work closely with the Practice Manager in providing advice to DRC Coordinators on both civil and criminal matters • complete complex project work, as directed by the DRB Executive • research and collate information pertaining to ADR, including the interpretation of legislation and policy and procedure 	Practice Manager (A07)
Justice Mediation Officer	A05	<ul style="list-style-type: none"> • manage the case load of the Justice Mediation Program in their region, delegating where appropriate • support the JM Intake team in providing effective and efficient JM processes in their region • assess matters for eligibility & suitability • work closely with the DRC Coordinator in providing a criminal mediation service • conduct referral liaison/ training as required 	DRC Coordinator (A06)



Justice Mediation Intake Officer	AO4	<ul style="list-style-type: none"> • conduct interviews with disputants to assess the suitability for justice mediation • work closely with the Justice Mediation Officer to assist clients through the mediation process • provide detailed information to mediators on scope of party negotiation and process agreements • monitor agreements for completion • complete administrative tasks, as required 	Justice Mediation Officer (AO5)
Civil Mediation Intake Officer	AO4	<ul style="list-style-type: none"> • conduct interviews with disputants to assess the suitability for civil mediation • work closely with the Civil Mediation Officer (or DRC Coordinator) to assist clients through the mediation process • provide detailed information to mediators on scope of party dispute • manage workloads effectively and efficiently • complete administrative tasks, as required 	Civil Mediation Officer (AO5)* <i>* In regions where there is no Civil Mediation Officer this position reports directly to the DRC Coordinator</i>
Civil Mediation Intake Support Officer	AO3	<ul style="list-style-type: none"> • support the Civil Mediation Intake team in managing the administrative tasks of the DRC • finalise mediation paperwork • complete data entry in an accurate and efficient manner • complete administrative tasks, as required 	Civil Mediation Intake Officer (AO4)



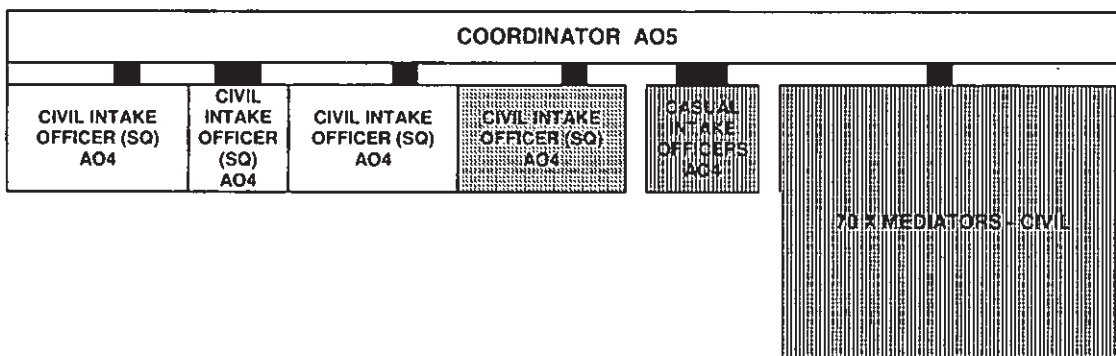
South QLD Dispute Resolution Centre - Proposed



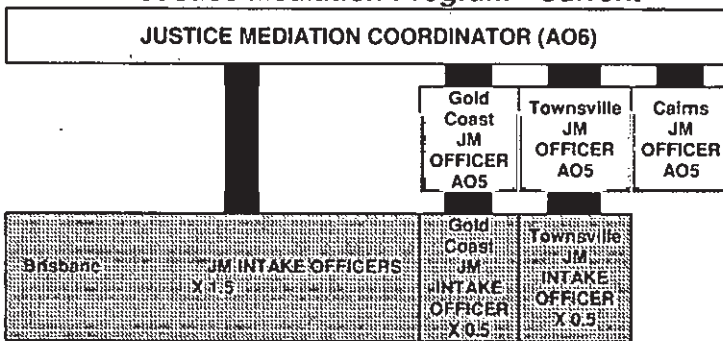
Legend	
	Temporary position
	Casual position



South QLD Dispute Resolution Centre - Current

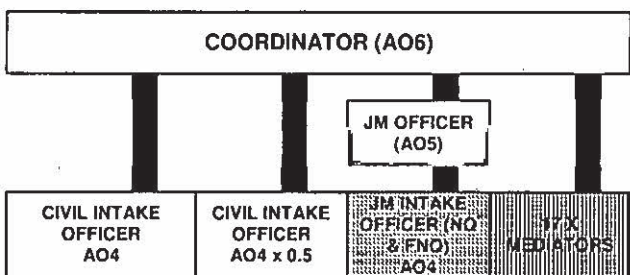


Justice Mediation Program - Current

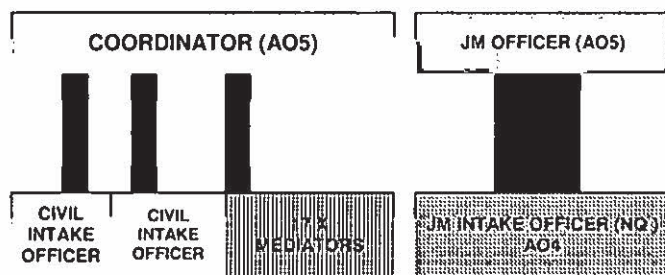


The shortfall in funding between the current structures and proposed structure for the SQ DRC is (\$79,693.00).

North QLD Dispute Resolution Centre - Proposed

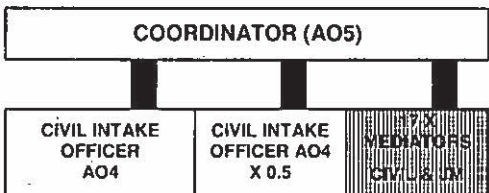


North QLD Dispute Resolution Centre - Current

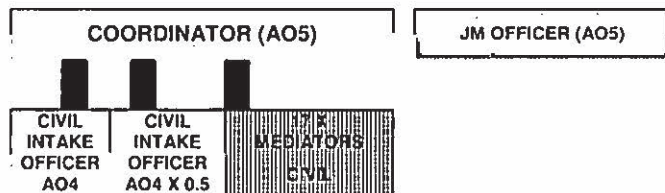


The shortfall in funding between the current and the proposed structures for the NQ DRC is \$(43,637.00).

Far North QLD Dispute Resolution Centre - Proposed



Far North QLD Dispute Resolution Centre - Current



8.0 FUTURE DIRECTION

Two issues shaping the future direction of the Justice Mediation Program are the lack of an additional appropriation to meet increased demand for services; and the need for justice mediation to be specifically mentioned in legislation. One option for meeting the increased demand for justice mediation services is to raise revenue by partnering with regulatory agencies to provide a cost-effective way to deal with breaches of regulations.

8.1 RESTORATIVE JUSTICE IN REGULATORY AGENCIES

In 2009 the DRB conducted a restorative justice process regarding a complaint under the *Aboriginal Cultural Heritage Act 2003*. The matter was the subject of a Referring Order made pursuant to the *District Court of Queensland Act 1967*. The parties to the mediation were a Queensland Government department, a representative of an Indigenous corporation and a Queensland Government Owned Corporation. The mediation was successful and an agreement satisfactory to all parties was reached. On compliance by the defendant with all clauses of the agreement, the court and prosecuting authority were informed of the successful outcome. The prosecuting authority then discontinued the case.

Another important outcome of the restorative justice process was that the relationship between the parties was maintained, if not improved. The mediators reported that at the beginning of the mediation the atmosphere was tense and the attitude of the parties towards each other was one characterised by scepticism and mistrust. During the mediation the mediators reported that the atmosphere became more respectful and some deeper level of understanding of the other parties seemed to be achieved. At the end of the mediation the parties were more open and communicative, evidenced by laughter and discussion of opportunities for future cooperation.

Prior to the matter going to the District Court, a four day committal proceeding was held in the Magistrates Court, present at which were counsel and instructing solicitors for two parties and a solicitor for the third party. The Queensland Government estimated the case had cost them at least \$100,000 prior to the referral to mediation. The defendant estimated it had cost them about the same amount. In addition, there would have been significant costs for Queensland Courts. Although in this case the DRB did not charge for the restorative justice service, if fees had been charged, it is estimated the cost would have been approximately \$3,000. Use of justice mediation after an investigation has occurred and/or the defendant has accepted responsibility for the harm caused, represents huge savings for the State and other parties over the traditional litigation path.

The literature provides some support for restorative justice practices in regulatory agencies. Rees, 1994 (in Braithwaite, 2003) studied US nuclear regulation after the Three Mile Island incident. Rees's research was interpreted as supporting the efficacy of reintegrative shaming in business regulation. The industry realised that it had to transform its regulation from a rulebook orientation to one oriented to people and corporate culture, focused on a dialogue about how to achieve outcomes rather than rule-book enforcement. While it was difficult for those involved to admit to mistakes, Rees reported that it resulted in considerable improvement across a range of indicators of the safety performance of the US nuclear power industry.

Braithwaite (2003) also reports that two years following an inspection of regulatory compliance in nursing homes using restorative justice practices (communication of clear disapproval of non-compliance together with high reintegrative styles of communication), compliance improved by two points. In contrast, high disapproval and low reintegrative styles decreased compliance by almost two points.

Recommendation 15

It is recommended that the DRB develops partnerships with regulatory agencies, such as the Department of Environment and Resource Management and the Department of Employment, Economic Development and Innovation (Protecting Queensland) to provide cost-effective restorative justice (justice mediation) services when a breach of a regulation occurs for which prosecution in a court may otherwise be considered.

8.2 LEGISLATIVE PROVISION FOR JUSTICE MEDIATION

At present, justice (criminal) mediations are conducted under the *Dispute Resolution Centres Act 1990*, the same legislation under which civil mediations are conducted. However, justice mediation is not specifically mentioned in this act probably because in the climate of 1990, when the DRC legislation was enacted, only civil mediation was envisaged. Neither is justice mediation mentioned in any other Queensland act. This is not a major issue for DRB staff and most justice mediation clients. It does, however, create confusion for some stakeholders and waste court and DRB resources.

A recent case highlighted the confusion in the minds of a defence solicitor and a magistrate created by the absence of a firm legislative basis for criminal mediation. In this case, which had been prolonged over several months, court transcripts reveal that the defence solicitor and the magistrate believed that it was the subject of a referring order under the *Magistrates Courts Act 1921* and mediation was therefore compulsory, even though the matter was originally ordered to mediation under the *Justices Act 1886*.

Section 52A (1) of the *Justices Act 1886* states that ‘... a magistrate or the clerk of the court ... may order the complainant to submit the matter to mediation under the *Dispute Resolution Centres Act 1990* (an order to mediate). The crucial issue here is that the mediation is conducted under the *Dispute Resolution Centres Act* and is therefore voluntary.

When the Justice Mediation Officer assessed the suitability of the case, it became apparent that the particular circumstances made the case unsuitable for justice mediation, and the matter was sent back to the court to deal with. This caused much consternation in the court because it was not understood that the mediation was to be conducted under the *Dispute Resolution Centres Act 1990*, not the *Magistrates Courts Act*; and that the Justice Mediation Officer had the authority, delegated by the Director, to decline to conduct the mediation. The court then listed the matter as ‘sine die’, which is understood to mean an indefinite stay on proceedings. This may cause the defendants much inconvenience in the future since a criminal charge will remain against their names.

In another instance a criminal matter was ordered to mediation under the *District Court of Queensland Act 1967*. Again this made the mediation compulsory but in this case this was not an issue because both the parties agreed to the mediation. This would have been a problem if the parties had not agreed voluntarily. However, it did create some confusion about the way the outcome of the mediation was reported to the court, particularly since the court had not made a referring order.

It is suggested that the intention of the sections of the *Magistrates Courts Act 1921*, the *District Court of Queensland Act 1967*, and the *Supreme Court of Queensland Act 1991* relating to mediation, are to civil matters. This contention is supported by the fact that the language used in these sections, for example, 'litigant', 'negotiated settlements' and 'satisfactory resolutions of disputes', is reflective of civil mediation. Terms typical of criminal proceedings such as 'Crown', 'defendant', 'complainant', and 'victim' are not used at all. In the context of case appraisals, the other ADR process mentioned in the sections related to mediation, these cannot be used in criminal cases.

It is also noted that section.30(2) of the *Magistrates Courts Act* provides that if a party impedes an ADR process, some of the orders that may be imposed include typically civil orders, for example, the stay of a (civil) claim until ADR is finalised or the awarding of costs in the proceeding.

It is suggested that many court and DRB resources could have been spared if justice mediations were specifically dealt with in legislation.

Other stakeholders, such as some officers in the Queensland Police Service and in the Office of the Director of Public Prosecutions, as well as some judges and magistrates, seem to be reluctant to refer matters for criminal mediation. This is probably because there is no obvious legislative basis for the referral of criminal matters to mediation; and no regulation for how the prosecuting authorities and the courts are informed of the outcomes of justice mediation, other than DRB procedures.

A legislative basis for criminal mediations specifying the issues noted in Recommendation 16 would facilitate state-wide consistency in referrals. It would also facilitate the inclusion of information about justice mediation in the Police Operational Manual.

A judge of the District Court, when consulted about this review, expressed the view that legislative amendments need to be made such that prosecutors and judges consider justice mediation for a certain range of cases. The judge added that amendment to the *Penalties and Sentences Act 1992* making reference to justice mediation being conducted under the *Dispute Resolution Centres Act 1990* could be made in a similar way as reference to mediation is made in the *Justices Act 1886*.

Recommendation 16

It is recommended that representation be made to the Attorney-General to add to his legislative agenda, through the next Justice and other Legislation Bill, amendments to the *Dispute Resolution Centres Act 1990*, the *Justice and other Information Disclosure Act 2008*, the *Justices Act 1886* and the *Penalties and Sentences Act 1992*. Amendments to the *Dispute Resolution Centres Act* are to specify the principles of justice mediations, eligibility and suitability criterion and process, the referral process, referring entities, the stages of the criminal justice process at which referrals are made the range of cases for which justice mediation is not be considered, and the way in which referring entities and the courts are informed of the outcomes of justice mediations.

Amendments to the *Justice and other Information Disclosure Act 2008* are to enable an arrangement between the Director-General and the Commissioner to be formalised about the exchange of information about persons referred to dispute resolution for criminal matters. Amendments to the *Justices Act* are to clarify that this Act is to be used for referrals for criminal mediations.

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ATTACHMENT A

Table 9: Summary of Stakeholder Responses

Question	Median Rating	Comment
<p>1. How would you rate the service offered by the justice mediation program</p>	<p>8.5</p>	<ul style="list-style-type: none"> • Only recently have I been advised that referrals would be accepted in matters involving the sorts of charges that come before the District Court, as opposed to those before the Magistrates Court. • Have referred 3 matters but only 1 went ahead. Some time & effort went into the preparation of the of the referral. It was therefore particularly disappointing not to be told the reason for the mediation not proceeding. Could not the parties be asked to authorise the mediator to inform the police, legal representatives 7 the court as to the reason (s) in general terms & without disclosing confidences, as to why the mediation could not proceed. • I have seen many matters such as assault being withdrawn after matters have been canvassed at mediation. • A successful result means a win for both complainant and defendant. • I am aware of many referrals & the service is timely, friendly & efficient. • Can be a bit reserved in sharing information e.g., reason ADR failed, but otherwise great. • Experience has been the program offers a suitable alternative & outcomes for both complainants & offenders & thereby alleviating the pressure on the court system with many hearings avoided. • Found the JM service in Brisbane to be excellent. Can think of an example where they dealt with an extremely challenging Client. They were patient & understanding in every respect.
<p>2. Are there any aspects of the service you think could be improved? If so, what are they and how could they be improved?</p>	<p>N/A</p>	<ul style="list-style-type: none"> • Appears to be little awareness of service in the legal profession • Availability for people in Gladstone needs to be reviewed. • Sometimes matters take long periods before they are finalised. Also some centres are precluded from referring matters to mediation. • Changed circumstances creating inability to pay restitution could be resolved if restitution went through SPER. • Increased staffing levels would assist greatly. • No. I am very happy. • More speedy process. It appears that current workload is high & applications are not being processed in a timely manner. • Only downside to the program is the barrier at this stage to rural areas surrounding Townsville. May be improved by offering service on circuit or through local community groups etc. (if practicable). • Feel the service & community would benefit greatly by there being greater awareness of the program in the police service. We find that in the majority of cases when police are informed of the nature of the service they have been enthusiastic. However, on many occasions they are completely, or largely, unfamiliar with the service.

Question	Median Rating	Comment
3. How satisfied are you with the communication between you (the referrer) and program staff and if communication could be improved how do think it could be improved?	9	<ul style="list-style-type: none"> • My main concern is the length of time involved & this would only be rectified through more staff being appointed. • Communication has always been very good at Townsville. • All communication has been professional & timely. • On most occasions I have had to leave message & have been unable to talk directly to JM staff. • Communication has been prompt & calls always returned. Very professional & a great help. • I have found the program staff open to discussing all aspects of a referral.
4. Are there any offence types you consider are suitable for referral to justice mediation that are currently not accepted?	N/A	<ul style="list-style-type: none"> • Domestic violence charges • Public nuisance, possession of a knife in a public place etc. These offences are often associated with other more serious charges that are being mediated. It makes sense to also mediate the lesser charges at the same time. • Arson/attempted arson. Depending on circumstances, if outcome of long running dispute & compensation is achievable, then may be appropriate. • Ticked no because the ground for rejection have not centred around the nature of the offence.
5. Do you have any comments about the criteria ¹ the program currently uses to refuse a referral?	N/A	<ul style="list-style-type: none"> • Some clients have extensive criminal history but last offence was many years ago. Others may have no like offences despite extensive history. • I note the charge of 'going armed so as to cause fear' is not currently accepted. There are a variety of circumstances which constitute this charge. I think a blanket rejection of this offence fails to recognise the breadth of this conduct.
6. Do you believe it would be valuable to expand the justice mediation program to other areas in Queensland? If yes, to which areas?	N/A	<ul style="list-style-type: none"> • The resource should be offered state-wide. Not to do so is discriminatory. • People living in Gladstone region should be able to enjoy the same opportunities for mediation as those whose matters are before the courts in "funded" locations. • It should be available to everyone in Queensland. • There is potential for expansion to anywhere that holds court. • Yes. I am a great believer. • Where court workloads mean prolonged delays • All areas, particular those with larger populations & more demands on courts (e.g., Brisbane). For rural areas look at circuit approach to avoid disadvantaging residents because of locale. • Provided the participants are prepared to travel, I see tremendous benefits with extending the program as far as possible throughout the State. I can speak of defendants who have gained a greater insight into the needs of others through their participation in this process.

¹ Excerpts from the DRB's Manual of Policy and Procedures related to criteria are re-printed in Attachment 2 for your reference.

Question	Median Rating	Comment
7. Do you have any other comments about the justice mediation program?	N/A	<ul style="list-style-type: none"> • I fully support it & its expansion. • A positive alternative to matters proceeding through court, especially when the matter is restorative for all parties. • All good. • Staff are friendly, cooperative & from my experience are effective mediators. • I now see it as an invaluable tool to provide justice to complainants (as well as a hand in diversionary proceedings) & to alleviate the strains on the court system. Also allows offenders and alternative & cost-effective form of justice. • I have been fortunate enough to deal with officers of the JM program in Brisbane, Townsville and the Gold Coast. In every case I have found them to be extremely helpful & understanding of the needs of all involved. In my view the program has become an invaluable facet of the criminal justice system.

ATTACHMENT B

ODPP FEEDBACK





Review of the Justice Mediation Program by Kay Gaffney, Practice Manager, Dispute Resolution Branch Department of Justice & Attorney-General

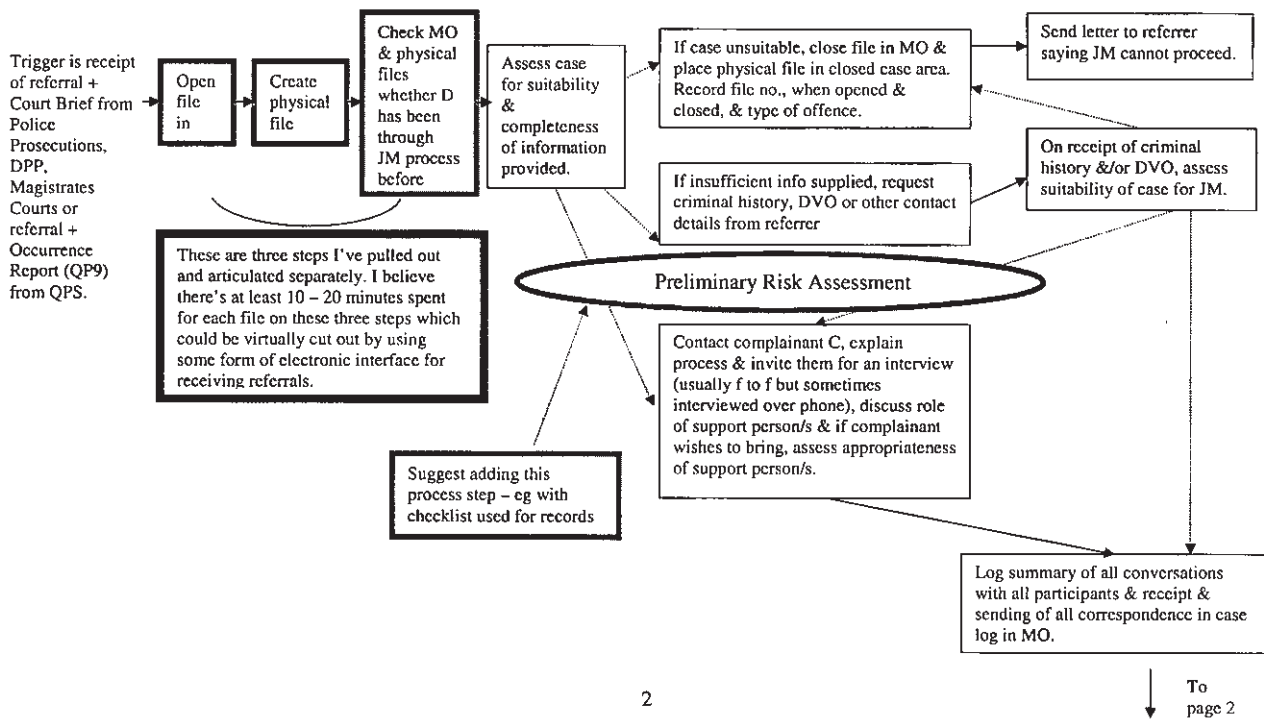
Advice on key issues experienced by the Office of the Director of Public Prosecutions (ODPP)

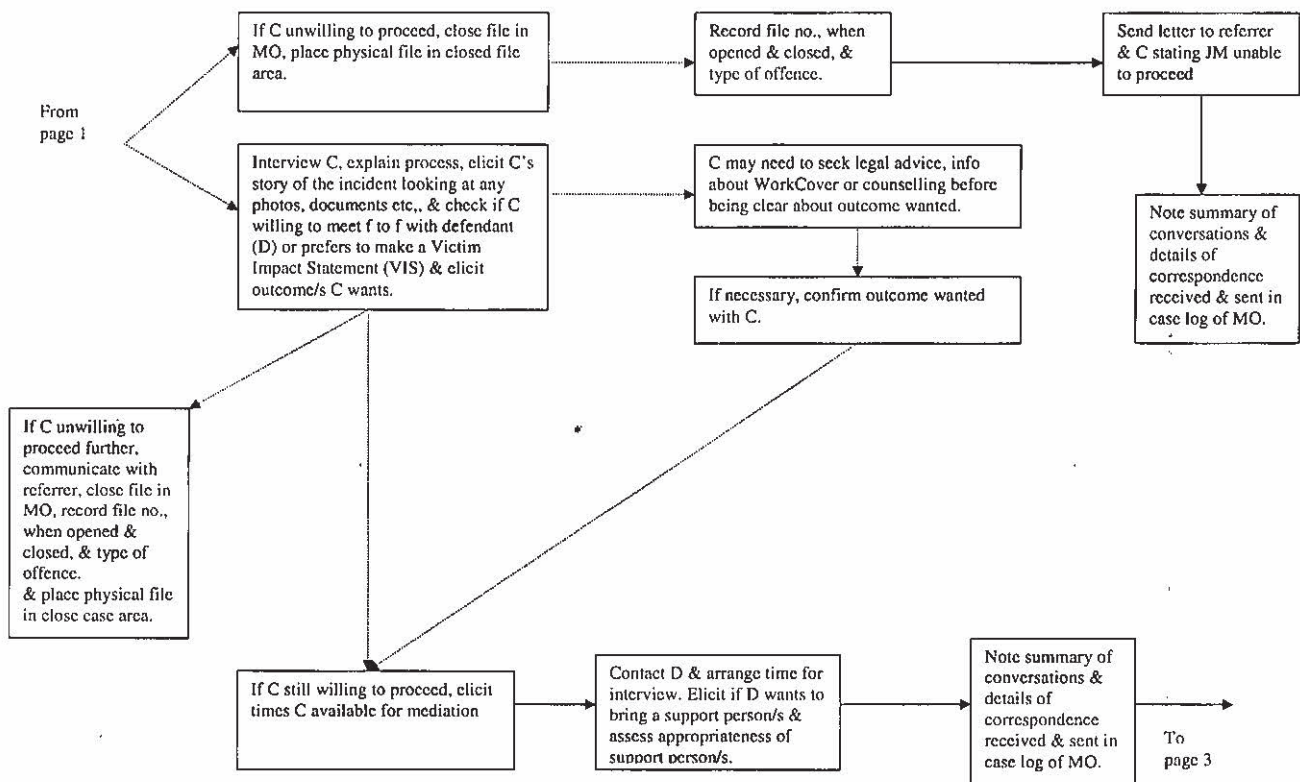
ODPP Consultation: Practice Managers and Principal Crown Prosecutors statewide were asked to elicit feedback from staff in Chambers on the Justice Mediation program. All chambers responded and responses were collated to identify the key themes.

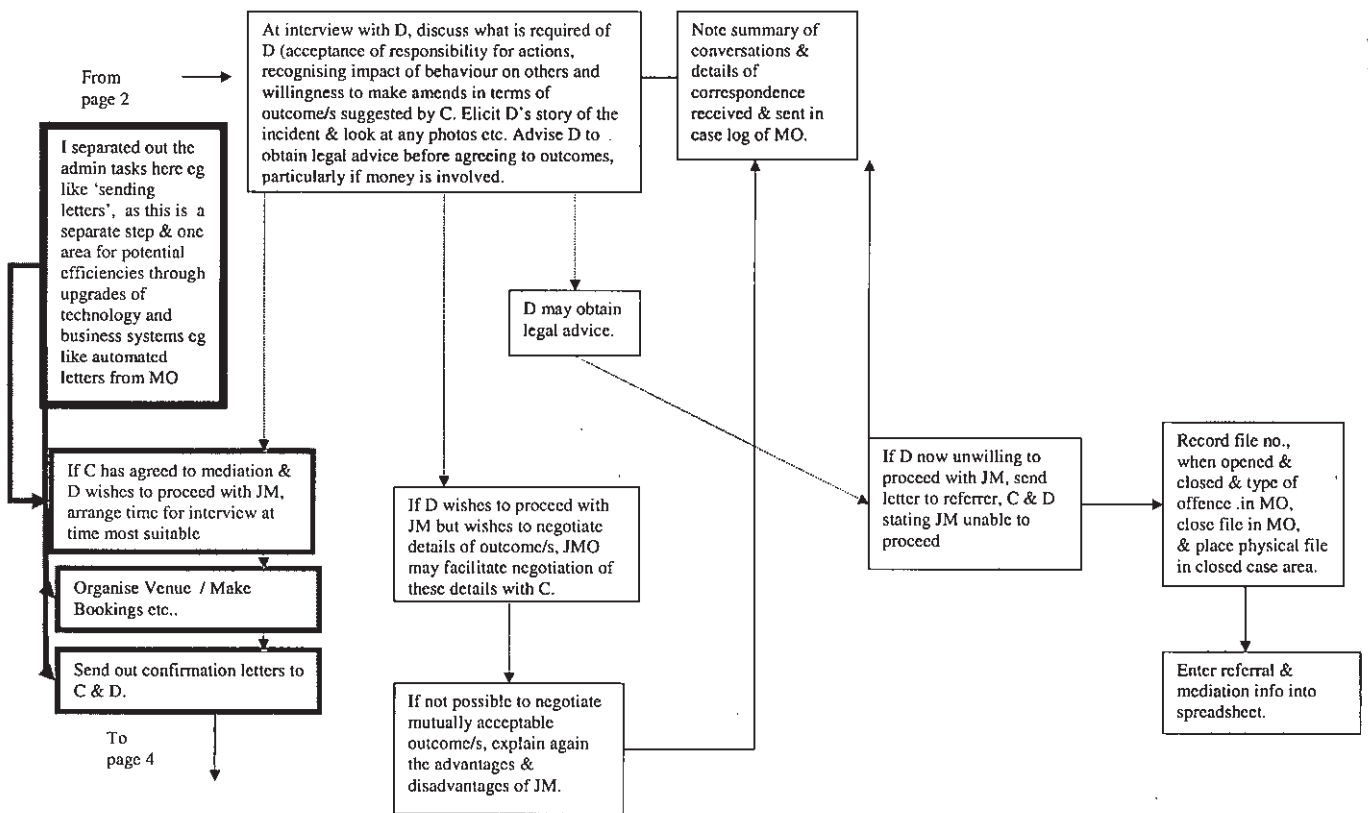
Issue identified	Scenario example	Proposed strategy to resolve/address
1. Application for JM between parties refused with no explanation to ODPP referring officer	<ul style="list-style-type: none"> > A matter referred for JM process – all parties agreed > No explanation, information or advice as to why referral rejected > ODPP staff report a need for improved communication and information sharing in relation to what decisions or agreement are made and why or why not a matter is accepted or rejected by JM service 	<ul style="list-style-type: none"> ❖ Discuss concerns with referring ODPP Prosecutor/legal officer prior to making decision ❖ For ODPP to provide appropriate referrals - reasons/information about why the matter was refused or rejected would be helpful
2. JM program not available in all geographical locations where ODPP Chambers are established	<ul style="list-style-type: none"> > Referral to JM is appropriate and all parties agree (eg: minor disagreement resulting in an assault between 62 & 58 YO family members) > JM representatives not available locally > No option offered by JM to provide JM representatives to travel to area – short distance from Brisbane 	<ul style="list-style-type: none"> ❖ Establish flexibility for JM representatives to travel to areas to conduct JM ❖ JM services investigate the use and appropriateness of technology in locations where JM is not based – eg: video conference, skype, teleconference

Office of the Director of Public Prosecutions (ODPP) 21 April 2010

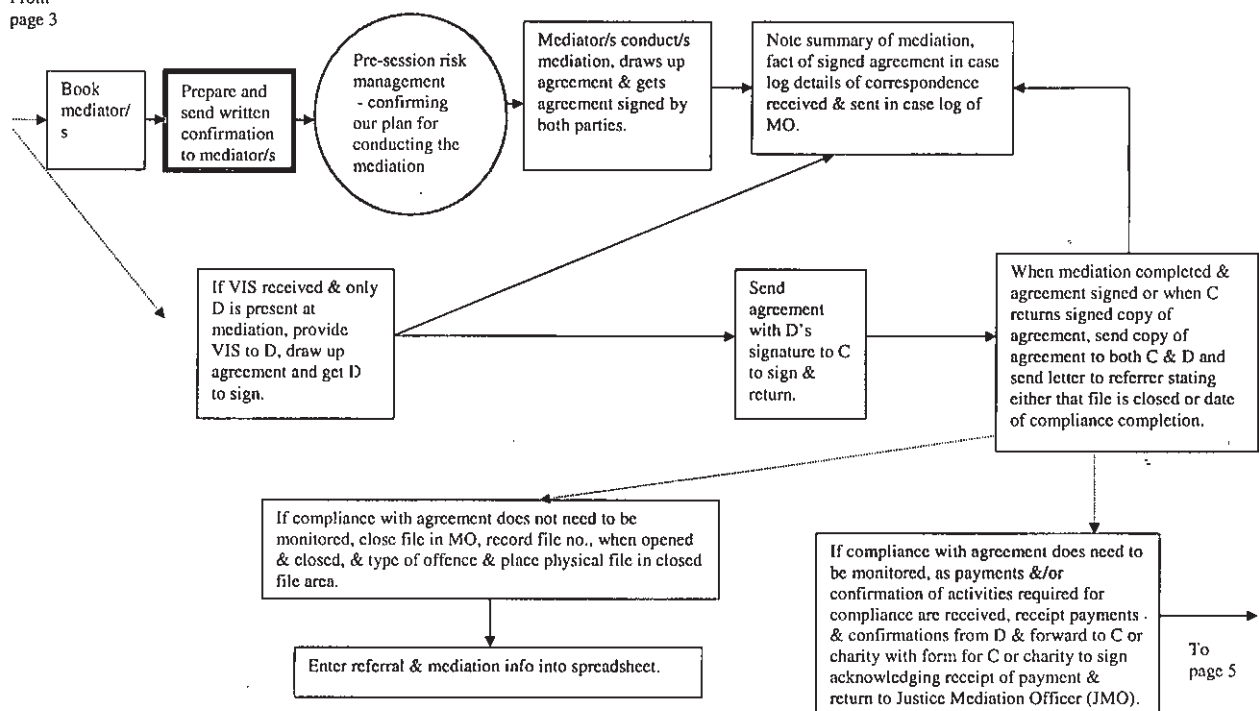
MAP 1-PROVIDE JUSTICE MEDIATIONS
BRISBANE 15 April 2009

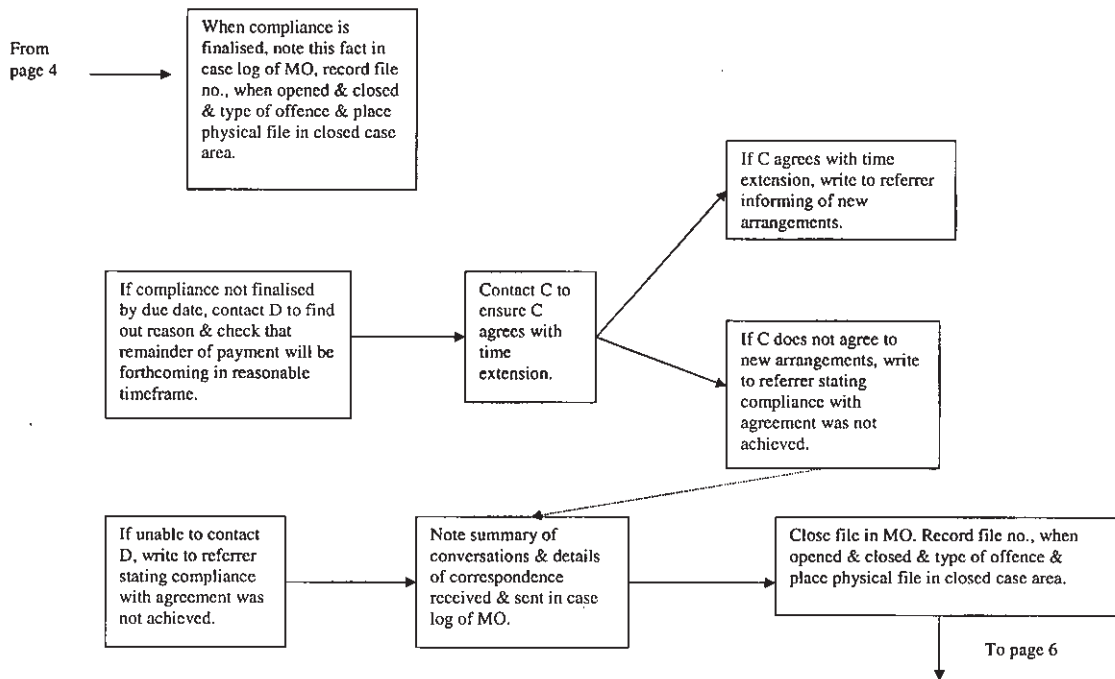






From page 3





From
page 5

Approx. 6 weeks after mediation or presentation of VIS send by post client satisfaction survey to C & D & request return of completed survey.
A different survey is used for mediations & VIS' & for C & D.

When survey returned, collate data in spreadsheet.

JM Coordinator monitors & reports on trends.

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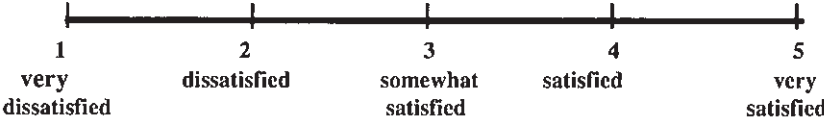
COMPLAINANTS' QUESTIONNAIRE FACE-TO-FACE MEDIATIONS

THIS IS A SURVEY OF YOUR EXPERIENCE THROUGH THE JUSTICE MEDIATION PROCESS

FileNo: - C -

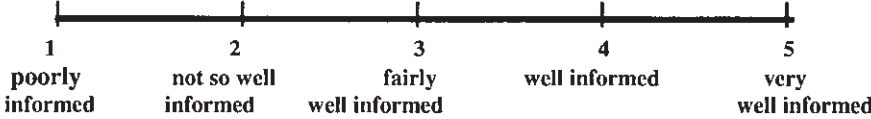
Please answer the following questions on a scale from 1 – 5

1) To what degree were you satisfied with the justice mediation program?



Please give short explanation below

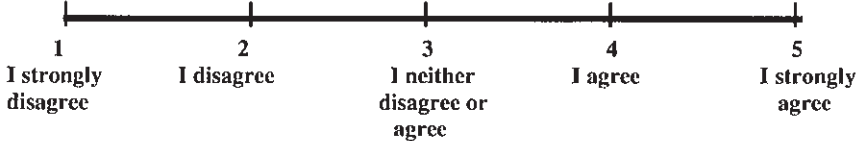
2) To what degree, do you feel, you were kept informed about the progress of the matter?



Please give short explanation below

Please answer the following questions on a scale from 1 – 5.

3) Would you recommend this service to others?



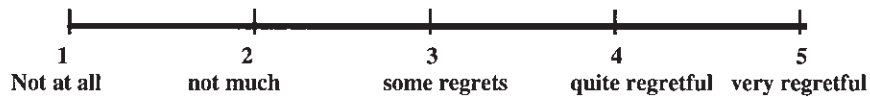
Please give short explanation below

4) What were your feelings about the situation / matter before the mediation, compared to now?
What is different?

Please give short explanation below

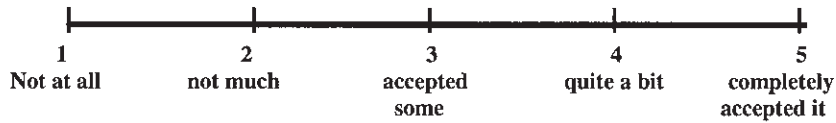
Please answer the following questions on a scale from 1 – 5

5) To what degree, do you believe the defendant demonstrated feelings of regret about the incident?



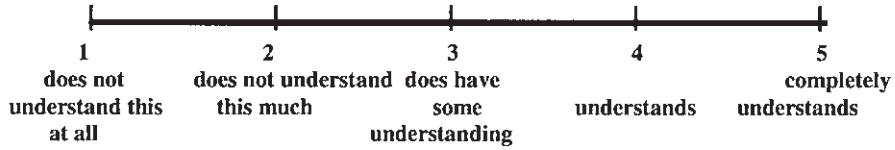
Please give short explanation below

6) To what degree, do you believe the defendant demonstrated that she/he accepted responsibility for the incident?



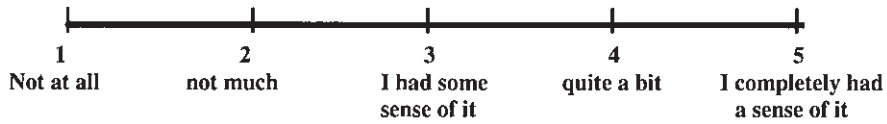
Please give short explanation below

7) To what degree, do you believe the defendant demonstrated that she/he understood the effect that his/her actions had / have on you and your family and friends?



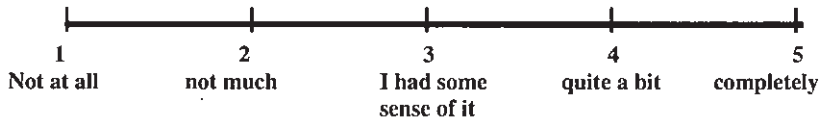
Please give short explanation below

8) To what degree, do you believe, you made informed decisions regarding the management of this matter?



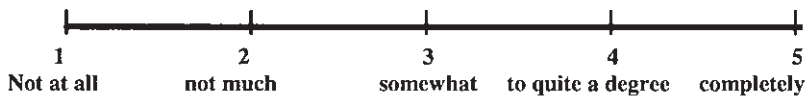
Please give short explanation below

9) To what degree, do you feel, you were able to express how you were affected by the incident?



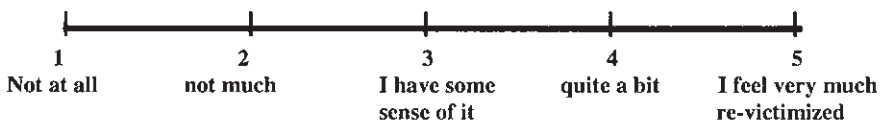
Please give short explanation below

10) To what degree, do you feel, the defendant has repaired any harm caused by the incident?



Please give short explanation below

11) To what degree, do you feel, that you have been re-victimized through your involvement in the Justice Mediation process?



Please give short explanation below

12) Why did you decide/agree to go through the Justice Mediation process?

Thank you for participating in this survey.

Please return completed form in the reply-paid envelope provided.



DEFENDANTS' QUESTIONNAIRE FACE-TO-FACE MEDIATIONS

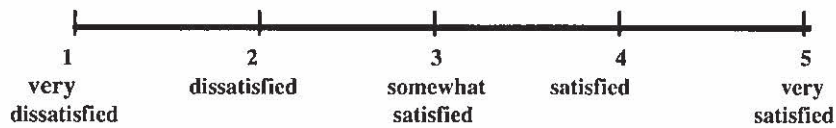
THIS IS A SURVEY OF YOUR EXPERIENCE THROUGH THE JUSTICE MEDIATION PROCESS

File No:

DEFENDANT

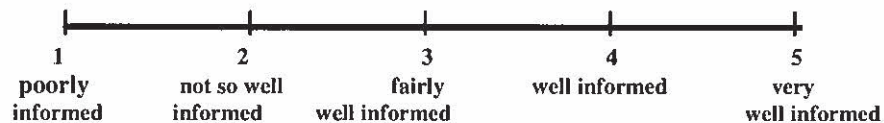
Please answer the following questions on a scale from 1 – 5.

1) To what degree were you satisfied with the justice mediation program?



Please give short explanation below

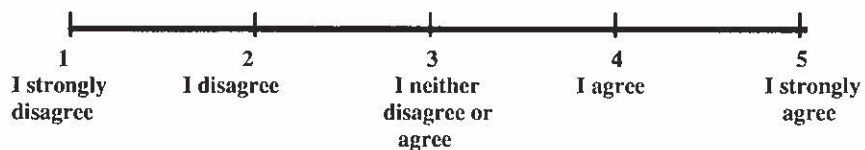
2) To what degree, do you feel, you were kept informed about the progress of the matter?



Please give short explanation below

Please answer the following questions on a scale from 1 – 5.

3) Would you recommend this service to others?



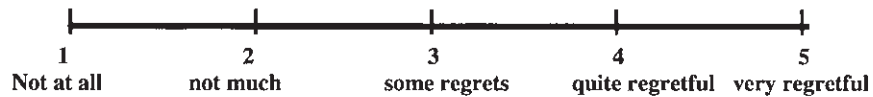
Please give short explanation below

4) What were your feelings about the situation / matter before the mediation, compared to now?
What is different?

Please give short explanation below

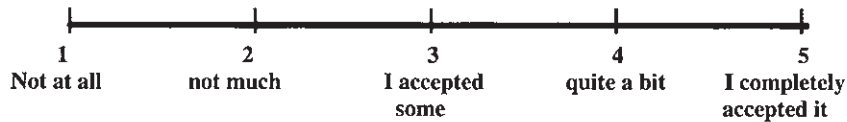
Please answer the following questions on a scale from 1 – 5.

5) To what degree, did you experience feelings of regret about the incident?



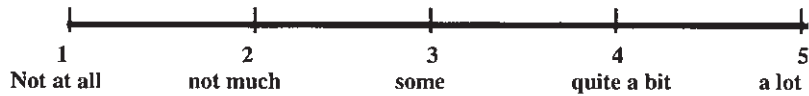
Please give short explanation below

6) To what degree, do you believe you accepted responsibility for your actions?



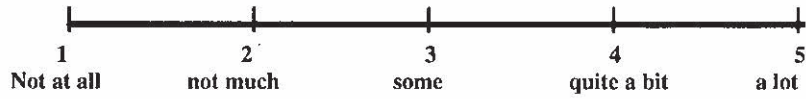
Please give short explanation below

7) To what degree, since the mediation, do you believe you understand the effect that your actions had / have on the complainant and their family and friends?



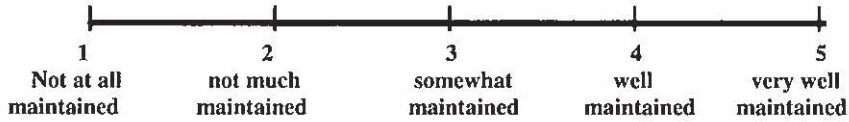
Please give short explanation below

8) To what a degree, do you believe you had an opportunity to make amends?



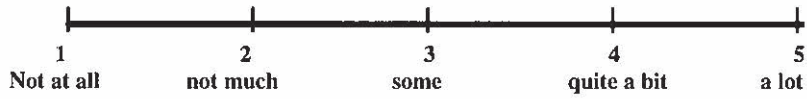
Please give short explanation below

9) To what degree, do you believe, the Justice Mediation process has helped maintain your bond with your family and friends?



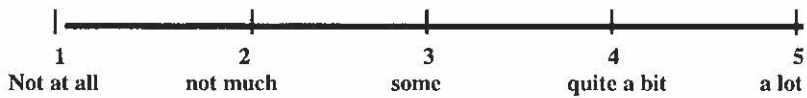
Please give short explanation below

10) To what degree, do you believe you were treated respectfully by the Justice Mediation Program?



Please give short explanation below

11) To what degree, do you believe, you were treated fairly during the Justice Mediation process?



Please give short explanation below

12) Do you believe this matter would have been better dealt with through the court process?

Thank you for participating in this survey.

Please return completed form in the reply-paid envelope provided.

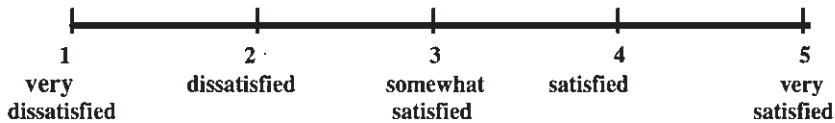
COMPLAINANTS' QUESTIONNAIRE VIS MEDIATIONS

THIS IS A SURVEY OF YOUR EXPERIENCE THROUGH THE JUSTICE MEDIATION PROCESS

File No: - Complainant – (VIS)

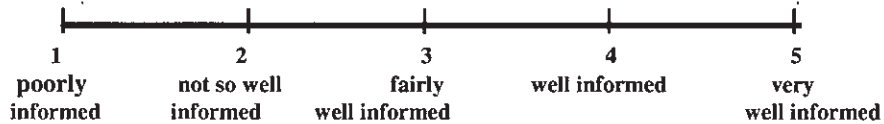
Please answer the following questions on a scale from 1 – 5

1) To what degree were you satisfied with the justice mediation program?



Please give short explanation below

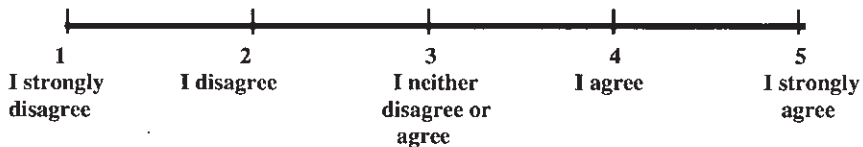
2) To what degree, do you feel, you were kept informed about the progress of the matter?



Please give short explanation below

Please answer the following questions on a scale from 1 – 5.

3) Would you recommend this service to others?



Please give short explanation below

4) What were your feelings about the situation / matter before the mediation, compared to now?
What is different?

Please give short explanation below

Did you received an apology letter from the defendant?

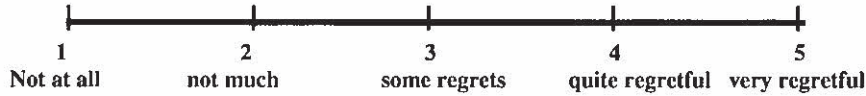
If you tick

Yes go to next question

NO go to question 8

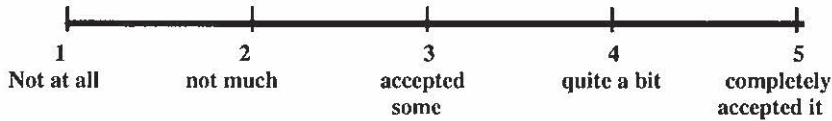
Please answer the following questions on a scale from 1 – 5.

5) Having read the defendants' apology letter, do you have a sense that the defendant experienced feelings of regret about the incident?



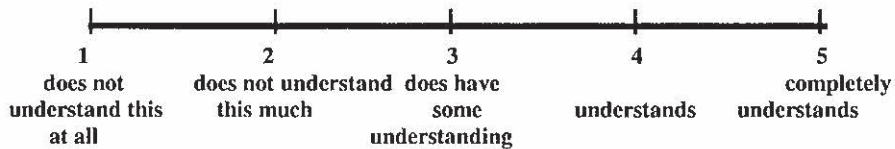
Please give short explanation below

6) Having read the defendants' apology letter, do you have a sense that the defendant accepted responsibility for the incident?



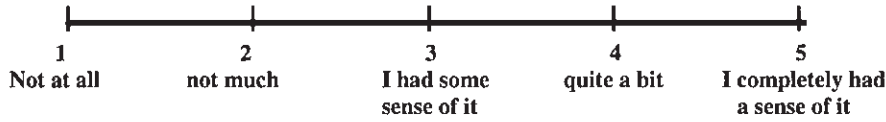
Please give short explanation below

7) Having read the defendants apology letter, do you have a sense that the defendant understood the effect that his/her actions had / have on you and your family and friends?



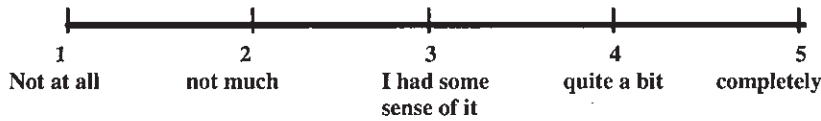
Please give short explanation below

8) To what degree, do you believe, you made informed decisions regarding the management of this matter?



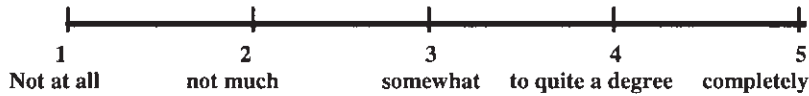
Please give short explanation below

9) By writing the Victim Impact Statement, to what degree, do you feel, you were able to express how you were affected by the incident?



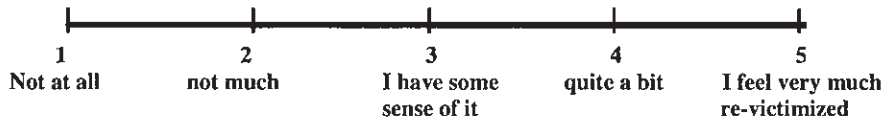
Please give short explanation below

10) To what degree, do you feel, the defendant has repaired any harm caused by the incident?



Please give short explanation below

11) To what degree, do you feel, that you have been re-victimized through your involvement in the Justice Mediation process?



Please give short explanation below

12) Why did you decide/agree to go through the Justice Mediation process?

Thank you for participating in this survey.

Please return completed form in the reply-paid envelope provided.

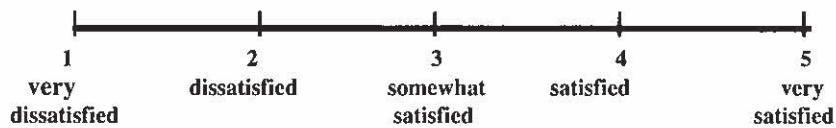
DEFENDANTS' QUESTIONNAIRE VIS MEDIATIONS

THIS IS A SURVEY OF YOUR EXPERIENCE THROUGH THE JUSTICE MEDIATION PROCESS

File No: Defendant (VIS)

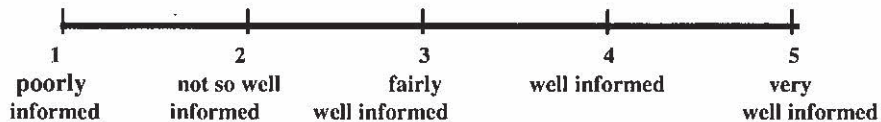
Please answer the following questions on a scale from 1 - 5.

1) To what degree were you satisfied with the justice mediation program?



Please give short explanation below

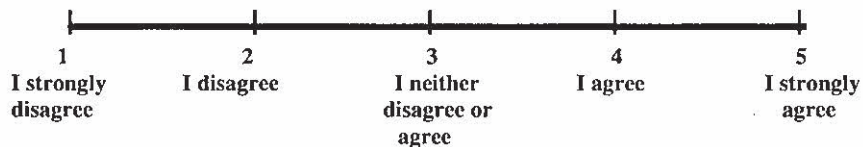
2) To what degree, do you feel, you were kept informed about the progress of the matter?



Please give short explanation below

Please answer the following questions on a scale from 1 - 5.

3) Would you recommend this service to others?



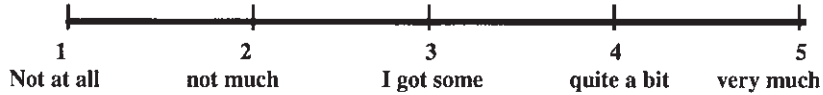
Please give short explanation below

4) What were your feelings about the situation / matter before the mediation, compared to now?
What is different?

Please give short explanation below

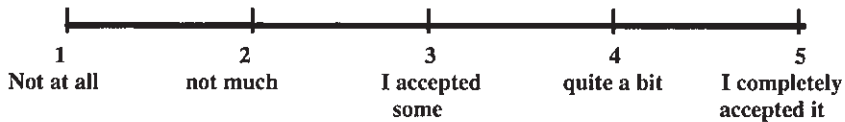
Please answer the following questions on a scale from 1 – 5.

5) When the complainants' Victim Impact Statement was read out to you during the mediation, to what degree did you experience feelings of regret about the incident?



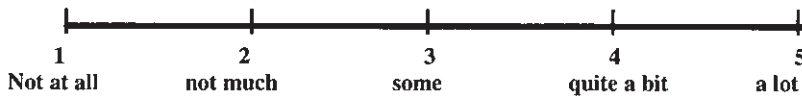
Please give short explanation below

6) To what degree, do you believe you accepted responsibility for your actions?



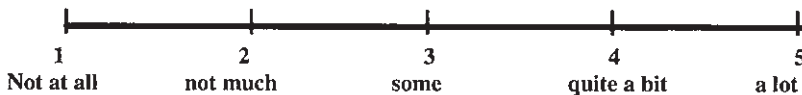
Please give short explanation below

7) To what degree, since the mediation, do you believe you understand the effect that your actions had / have on the complainant and their family and friends?



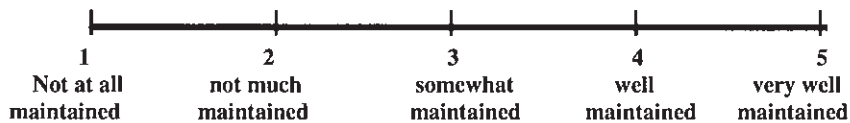
Please give short explanation below

8) To what a degree, do you believe you had an opportunity to make amends?



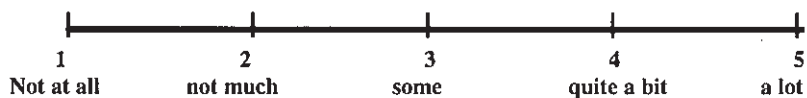
Please give short explanation below

9) To what degree, do you believe, the Justice Mediation process has helped maintain your bond with your family and friends?



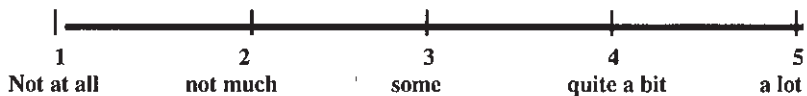
Please give short explanation below

10) To what degree, do you believe you were treated respectfully by the Justice Mediation Program?



Please give short explanation below

11) To what degree, do you believe, you were treated fairly during the Justice Mediation process?



Please give short explanation below

12) Do you believe this matter would have been better dealt with through the court process?



Thank you for participating in this survey.

Please return completed form in the reply-paid envelope provided.

CONSULTATION REGARDING REVIEW OF JUSTICE (CRIMINAL) MEDIATION
PROGRAM, DISPUTE RESOLUTION BRANCH,
DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

Name: _____

Organisation: _____

Contact Details: Phone No. _____

Email: _____

1. On a scale of 1 – 10 (*1 being poor & 10 being excellent*) how would you rate the service offered by the justice mediation program in

1 2 3 4 5 6 7 8 9 10

Comments:

2. Are there any aspects of the service you think could be improved? If so, what are they and how could they be improved?

3. On a scale of 1-10 (*1 being poor & 10 being excellent*) how satisfied are you with the communication between you (the referrer) and program staff and if communication could be improved how do think it could be improved?

1 2 3 4 5 6 7 8 9 10

4. Are there any offence types you consider are suitable for referral to justice mediation that are currently not accepted?

Yes (please tick)

No

If yes, what are they?

5. Do you have any comments about the criteria¹ the program currently uses to refuse a referral?

6. Do you believe it would be valuable to expand the justice mediation program to other areas in Queensland?

Yes (please tick)

No

If yes, to which areas?

7. Do you have any other comments about the justice mediation program?

Please return the completed questionnaire to:

**Kay Gaffney
Practice Manager**

or

Email to:

kay.gaffney@justice.qld.gov.au

or

Fax to: 3239 6284

**Dispute Resolution Branch
Department of Justice and
Attorney-General
Level 1 Brisbane Magistrates
Court
GPO Box 149
Brisbane Qld 4001**

¹ Excerpts from the DRB's Manual of Policy and Procedures related to criteria are re-printed in Attachment 2 for your reference.



APPENDIX 4

CATEGORIES & TASKS

PROVIDE JUSTICE MEDIATIONS

1.0 Open file & assess matter

- 1.1 On receipt of referral, open file in MO, create physical file & begin to assess case for suitability & completeness of info provided
- 1.2 If insufficient info supplied, request criminal history, DVO or other contact details from referrer
- 1.3 On receipt of criminal history &/or DVO, re-assess suitability of case
- 1.4 Fax/email referrer 'Cannot proceed-unsuitable'
- 1.5 Enter relevant info in MO
- 1.6 Discuss case management with colleague

2.0 Conduct interviews with complainant (C) & defendant (D)

- 2.1 Invite C for an interview & encourage participation of support person/s
- 2.2 Assess suitability of C's support person, if required
- 2.3 Interview C, explore outcomes
- 2.4 If C wishes to seek legal advice/info about WorkCover/counselling, confirm outcome C wants at later date
- 2.5 If C only wishes to prepare a Victim Impact Statement (VIS), on receipt peruse & contact C to expand any issues lacking in detail.
- 2.6 Contact D & arrange time for interview. -If unable to contact D, send 'Complaint contact JM letter'

- 2.7 Assess suitability of D's support person, if required
- 2.8 Interview D, assessing suitability of case for JM
- 2.9 Facilitate negotiation of details of outcome/s with C, if D wants this
- 2.10 Forward relevant correspondence:
 - Confirm interview appointment letter
 - Cannot proceed-decline matter to referrer/solicitor & C if appropriate (C unwilling to proceed, unable to contact D, case judged unsuitable, if not possible to negotiate mutually acceptable outcome/s)
 - Complaint contact JM letter, if unable to contact D for interview
- 2.11 Note summary of conversations, details of correspondence received & sent & other relevant info in MO
- 2.12 Enter referral & mediation info into spreadsheet
- 2.13 Discuss with colleague case management/suitability to progress file

3.0 Arrange & conduct mediation & distribute copies of agreement

- 3.1 Arrange time for mediation with C & D, send 'C & D Confirm JM arrangements letter' & book mediator, if required
- 3.2 Book interpreter, venue, vehicle, accommodation & travel if required

- 3.3 Advise defendant, Prosecutions &/or defence solicitor to request further adjournment if mediation unable to be completed by court adjournment date & update adjournment date in MO, when notified of new date.
- 3.4 Draft agreement
- 3.5 On day of mediation, set up mediation room& equipment, conduct separate brief meetings with C & D &their support persons prior to mediation
- 3.6 Conduct mediation (if required read/provideVIS to D), finalise agreement & obtain signatures of D & C if present; & re-organise room & store equipment
- 3.7 Mediator debrief & prepare Report to Coordinator (R to C)
- 3.8 Note summary of mediation, fact of signed agreement, receipt of R to C & details of any correspondence in case log of MO
- 3.9 If necessary, send copies of agreement with D's signature to C to sign & return
- 3.10 Forward finalisation documents including copy of agreement signed by both parties to referrer, prosecutions & solicitors,& both C& D with relevant letter stating either that file is closed or date of anticipated completion of final term of agreement
- 3.11 Forward any referrals to organisation/s
- 3.12 Create, maintain & send file status report to Prosecutions & other stakeholders as necessary
- 4.0 Monitor compliance**
- 4.1 Record compliance issue & date for compliance to track D's compliance
- 4.2 Photocopy money order or bank cheques as received, receipt payments & confirmations from D as received. Forward Acknowledgement of Receipt form together with relevant letter & reply paid envelope by registered post to C or charity with for C or charity to complete & return; &/or obtain Delivery Confirmation-Advice Receipt for Registered Post & place on hard file
- 4.3 Note compliance with terms of agreement as it occurs in MO; & note in MO when compliance is finalised. Forward Finalisation Fax to referrer & Prosecutions notifying status of matter
- 4.4 Send Breach of Payment letter to D if compliance with each term is not finalised within 2 months of due date & negotiate extension. Contact C to ensure C agrees with time extension. If C agrees with time extension, write to referrer informing of new arrangements. If C does not agree to new arrangements, or if unable to contact D to negotiate time extension, write to referrer stating compliance with agreement not achieved
- 4.5 Note all relevant details in MO
- 5.0 Finalise case completion**
- 5.1 Complete session details in MO incl mediator pays when applicable
- 5.2 Complete record keeping (record file no, date when open & closed & type of offence) in MO & spreadsheet
- 5.3 Process mileage claims & payments for venues etc.
- 5.4 Close file in MO, place physical file in closed case area.

- 6.0 Client satisfaction surveys**
- 6.1 Forward relevant client satisfaction survey to C & D
- 6.2 Input response data into survey response spreadsheet when survey returned.
- 7.0 Administration**
- 7.1 Complete postage register for all mail sent, pick up & send post
- 7.2 Monitor Reports to Coordinator & follow up any issues
- 7.3 Compile Monthly Business Unit Report, incl JM stats & forward to JM Coordinator
- 7.4 Check& respond to phone & email messages; take phone calls from parties to files managed by remote worker & relay messages to remote worker (if the calls/emails relate to a file, count these as a case management task in the relevant stage).
- 7.5 Complete stationary orders
- 7.6 Print fact sheets
- 7.7 Other minor administrative tasks
- 8.0 Liaison, communication with referrers & related parties & community education**
- 8.1 Consultation, liaison & communication with referrers, related parties & government & non-government agencies
- 8.2 Community education/training
- 9.0 Coordinator Duties**
- 9.1 Collate, analyse & report on trends in client satisfaction
- 9.2 Collate regional Monthly business Unit Reports incl JM stats & forward to Exec Manager & Practice Manager.
- 9.3 Analyse & report on performance trends
- 9.4 Maintain communication with all JMOs
- 9.5 Manage performance of JMOs
- 9.6 Monitor policy & procedure trends& issues, research issues & develop/update JM policies & procedures
- 9.7 Review the JM program as needed
- 9.8 Prepare reports, correspondence
- 9.9 Provide JM training for DRB
- 9.10 Prepare/amend fact sheets
- 10.0 Leave**
- 10.1 Sick leave
- 10.2 Rec leave
- 10.3 LSL
- 10.4 Flex
- 10.5 Special leave
- 11.0 Organisational Activities**
- 11.1 Attend Branch meetings, e.g., CMM, PEPs or other performance management meetings
- 11.2 Comment on policy & procedures
- 11.3 Participate in reviews/evaluations/projects

DATA COLLECTION FORM –
Week 1

Completed By:

Instructions: For each 15 minute period, write a number in the time segment that corresponds to the task you performed in that time slot. The Tasks are noted in the shaded box on the back of the form. In the 'No. of times task performed' column, put a 1 each time you perform the task in that time slot, e.g., Respond to initial contact by phone or f to f & conduct intake with Party A. (If a task takes more than 15 minutes, simply bracket the time slots it takes).

Time	Mon 1 Feb		Tues 2 Feb		Wed 3 Feb		Thurs 4 Feb		Fri 5 Feb	
	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done
8:00-8:15										
8:15-8:30										
8:30-8:45										
8:45-9:00										
9:00-9:15										
9:15-9:30										
9:30-9:45										
9:45-10:00										
10:00-10:15										
10:15-10:30										
10:30-10:45										
10:45-11:00										
11:00-11:15										
11:15-11:30										
11:30-11:45										
11:45-12 noon										

Time	Mon 1 Feb		Tues 2 Feb		Wed 3 Feb		Thurs 4 Feb		Fri 5 Feb	
	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done	Task No	No. of times task done
12 noon-12:15										
12:15-12:30										
12:30-12:45										
12:45-1:00										
1:00-1:15										
1:15-1:30										
1:30-1:45										
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4:45-5:00										
5:00-5:15										
5:15-5:30										
5:30-5:45										
5:45-6:00										
After 6:00p.m.										

.....Your Signature:.....

.....Date:.....

JM Workloads Analysis

Workload Indicators - Data Collection Period 3 Aug 09 - 28 Aug 09

Number of working days this month

20

ACTIVITIES	Incomplete B/F	Volume received this month	Completed this month	Incomplete C/F	YTD Completed	Workload indicator (hrs/activity)	Output this month (FTE's)	Actual staff this month (FTE's)	Staff Variance	Actual Output Hours	Staff Equivalent based on Actual Output	Average staffing requirements this mth based on available FTE's	Average hrs this month	Hrs variance (Actual - Average)
JM Case Management	2	14	11	5	93	9.95	0.75	0.71	-0.05	109.45	0.75	0.71	102.77	6.68
Meetings, Orgn., DRC Mgmt & Gen Admin			463			0.22	0.70	0.64	-0.06	101.86	0.70	0.64	93.48	8.38
Training Responsibilities			91			0.25	0.16	0.15	-0.01	22.75	0.16	0.15	21.25	1.50
TOTAL														
Staff Establishment	1.5													
Est'ment days		30												
WHS		0												
Total leave			0.00											
						30.00								
							1.61	1.50	-0.11	234.06	1.61	1.50	217.50	16.56
									Attendance					
Total output (FTE's) for this month		1.61												
Total staff available this mth (FTE's)							1.50							
									Staff variance					-0.11

JUSTICE MEDIATION ASSESSMENT PROCESS

Prior to conducting the actual mediation a rigorous suitability assessment process occurs which includes:

- a. Perusal of the offence type. Dispute Resolution Branch (DRB) policy currently discourages the following offence types from justice mediation:
 - Armed robbery/robbery with violence
 - Arson/attempted arson
 - Go armed so as to cause fear
 - Murder/attempted murder
 - Rape/attempted rape
 - Unlawful wounding
 - Matters involving breaches of Domestic Violence Protection Orders
 - Instances of domestic violence where the parties are in a continuing relationship;
 - Stalking matters
- b. Perusal of the defendant's criminal history (if any), including the age and type of any previous convictions;
- c. Discussions with referrers, particularly about whether there are circumstances of aggravation that might increase the severity of the matter;
- d. Ensure there are no more than three defendants or complainants per referral;
- e. If the complainant or defendant is a child (under 17), determine whether adequate and on-going support mechanisms for the child are in place (Referrals where a complainant or defendant child is to be supported by a defendant or complainant parent are not appropriate for justice mediation);
- f. Determine likely financial limits of restitution and/or compensation. The program does not have the capacity to monitor payments for longer than six months or where the quantum is likely to exceed \$50,000;
- g. Interview the complainant/s to:
 - Confirm the complainant's willingness to participate;
 - clarify that they have reasonable expectations in terms of the likely outcomes;
 - clearly explain the process and the need where necessary to obtain independent legal advice;
 - clarify the complainant's story and the effect of the incident on them and their families;
 - explain the desirability of involving support people and determining who they might be
 - discuss what expectations there might be of the defendant, for example taking responsibility for their action and the expectation they will repair the harm;
 - discuss the options for an agreement and the consequences of the defendant not complying with the terms of the agreement; and
 - answer any questions or concerns the complainant may have about the process.

- h. Contact nominated support persons for the complainant and defendant to explain their role in the mediation and ensure they are able to offer an appropriate level of support;
- i. Interview the defendant/s to:
 - o Confirm they are participating in the program voluntarily and discuss the confidentiality of the process and the neutrality of the mediator
 - o Ensure they are willing to admit or acknowledge responsibility for their actions which constitute the alleged offence, ;
 - o Ensure they are prepared to listen to the complainant's story and the impact that their behaviour has had on the person and their friends and family;
 - o Ensure they are willing to take steps to repair the harm;
 - o Determine the outcomes they want from the process and inform them of what outcomes the complainant is seeking;
 - o Recommend they seek independent legal advice where restitution and/or compensation are involved;
 - o discuss the options for an agreement and the consequences of the defendant not complying with the terms of the agreement;
 - o answer any questions or concerns the defendant may have about the process; and
 - o determine that they have an appropriate level of remorse and are not just going through the motions in order to avoid a conviction.

MEMORANDUM

TO: Philip Reed, Director-General

THROUGH: Terry Ryan, A/Deputy Director-General, Justice Services

THROUGH: David Mackie, Executive Director, Community Justice Services

THROUGH: Lindsay Smith, Executive Manager, Dispute Resolution Branch

FROM: Kay Gaffney, Practice Manager, Dispute Resolution Branch

SUBJECT: **Internal Review of Justice Mediation Program**

DATE: 5 December 2011

PURPOSE

To request the Director-General's approval for the dissemination of a report concerning an internal Review of the Justice Mediation Program. The report is attached for his consideration (**Attachment 1**).

BACKGROUND

Since 1992, the Dispute Resolution Branch's (DRB) Justice Mediation Program has been delivering a service that mediates suitable criminal matters. It is based on restorative justice principles and uses a victim – offender conferencing model. Referrals to the program are received from courts, Police Prosecutions, Queensland Police Service (QPS) officers (with Police Prosecutions' approval) and the Office of the Director of Public Prosecutions (ODPP). Participation is voluntary for all parties. Agreement rates are consistently high, as is compliance by offenders with all the terms of the agreement.

The purpose of the review was to provide an assessment of the effectiveness of the Justice Mediation Program with regard to client and stakeholder satisfaction and degree of recidivism; and the efficiency of Justice Mediation Officers and other program staff, as assessed by relatively objective analyses of workloads. The review was also undertaken to inform the DRB in best practice and the DRB's five year planning.

ISSUES

The report provides a thorough analysis of the Justice Mediation Program and its research will be extremely useful to DRB and the Department of Justice and Attorney-General (DJAG) in promoting the benefits of the process for both victims and offenders. Sections of the report may also be used when responding to media inquiries, to dispel the myth that justice mediation is a "soft on crime" option.

Briefing Officer	Kay Gaffney – Practice Manager Dispute Resolution Branch	Approved by	Terry Ryan Deputy Director-General, Justice Services
Telephone	323 96301	Date	5 December 2011

RECOMMENDATION

It is recommended that the Director-General approve:

1. Distribution of copies of this report (**Attachment 1**) to external stakeholders who were consulted about their views of the effectiveness and efficiency of the program - including magistrates, one judge, ODPP, officers from Police Prosecutions Units, QPS officers and solicitors;
2. Publication of the report on the internal DJAG intranet and on the Justice external website; and
3. Publication of an article based on the report by a suitable Alternative Dispute Resolution journal.

Kay Gaffney
Practice Manager
Dispute Resolution Branch

<input type="checkbox"/> Noted <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved
Signed: Philip Reed, Director-General
Date:



Briefing Officer	Kay Gaffney – Practice Manager Dispute Resolution Branch	Approved by	Terry Ryan Deputy Director-General, Justice Services
Telephone	323 96301	Date	5 December 2011

DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL BRIEF FOR NOTING

Date: 12 December 2011
TO **Attorney-General, Minister for Local Government and Special Minister of State**
FROM Dispute Resolution Branch
SUBJECT Distribution of report on Internal Review of Justice Mediation Program to key stakeholders and publication on the Department of Justice and Attorney-General (DJAG) Website
Requested by Internally generated

RECOMMENDATION

That you **note** that the Department intends to distribute a Report on Internal Review of Justice Mediation Program (**Attachments 1 to 3**) to key stakeholders and to publish it on the Department of Justice and Attorney-General (DJAG) website.

BACKGROUND SUMMARY

1. Since 1992, the Dispute Resolution Branch's (DRB) Justice Mediation Program has been delivering a service that mediates suitable criminal matters. It is based on restorative justice principles and uses a victim – offender conferencing model. Referrals to the program are received from courts, Police Prosecutions, Queensland Police Service (QPS) officers (with Police Prosecutions' approval) and the Office of the Director of Public Prosecutions (ODPP). Participation is voluntary for all parties. Agreement rates are consistently high, as is compliance by offenders with all the terms of the agreement.

The purpose of the internal review was to assess the effectiveness of the Justice Mediation Program with regard to client and stakeholder satisfaction and degree of re-offending; and the efficiency of Justice Mediation Officers and other program staff, as assessed by relatively objective analyses of workloads. The review was also undertaken to inform the DRB in best practice and the DRB's five year planning.

ISSUES

2. The report provides a thorough analysis of the Justice Mediation Program and its research will be extremely useful to DRB and the Department of Justice and Attorney-General (DJAG) in promoting the benefits of the process for both victims and offenders.

Sections of the report may also be used when responding to media inquiries, to dispel the myth that justice mediation is a "soft on crime" option.

The report has already been provided to the Director-General, Deputy Director-General and to the QPS Legal Services Branch.

Approval is now sought to publish the report on the DJAG website so that it's available for the information of the wider audience and to contribute to research in this area.

3. The report reflects positively on the work of the Department and does not contain controversial information.

As well as dispelling the “soft on crime” myth the report highlights the high level of satisfaction amongst complainants / victims who provided feedback.

CULTURAL IMPACT

4. Not applicable

EMPLOYMENT IMPACT

5. Not applicable

CONSULTATION WITH STAKEHOLDERS

6. The review included extensive consultation with stakeholders and input was received from the following:
 - one Judge and two Magistrates;
 - ODPP;
 - QPS and Police Prosecutions;
 - Legal Aid Queensland;
 - private solicitors;
 - DJAG staff from Strategic Policy; Victim Assist Queensland and the DRB; and
 - Executive Director, Community Justice Services.

FINANCIAL IMPLICATIONS

7. DRB currently only provides justice mediation services in the following locations: Brisbane, Cleveland, Richlands, Holland Park, Ipswich, Southport, Coolangatta, Townsville and Cairns as these are the only areas for which it is funded. However, requests have come from Magistrates, Members of Parliament, QPS and the Queensland Law Society for justice mediation to be more available across the state.

POTENTIAL MEDIA

8. There has been some interest in the media about justice mediations in relation to high profile clients. Because of the confidentiality of the service, very little information is provided other than general descriptions of the mediation service and process. It would be very useful to have the report publicly available to increase people’s understanding of the benefits and integrity of the service.
9. Corporate Communications will be asked to re-badge the report in the latest format before it is published.
10. Justice mediation has been the subject of, or referred to in, the following Questions on Notice:
 - No. 5, Tuesday, 19 July 2011:

Legal Affairs, Police, Corrective Services and Emergency Services Committee asked the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (Mr Lucas) –

With reference to page 3-173 of the SDS, will the Minister outline the role of the Dispute Resolution Branch in providing a practical alternative to expensive, adversarial legal proceedings through conciliation, mediation and other services that help Queenslanders settle their differences more quickly, cheaply and amicably?

- No. 1000 - Asked on Thursday, 16 June 2011:

Mrs Cunningham asked the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (Mr Lucas)–

With reference to the Justice Mediation Program—

- (1) What was the program funding in 2008-09, 2009-10, 2010-11 and what is planned in the forthcoming year?
- (2) How many jurisdictions outside Brisbane, Cleveland, Ipswich, Cairns, Townsville and South Cooloola have accessed the program?
- (3) When will the program be extended across Queensland?

- No. 738 - Asked on Thursday, 12 May 2011:

Mr Bleijie asked the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (Mr Lucas)–

With reference to Alternative Dispute Resolution (ADR) Centres—

- (1) What was the total budget and actual expenditure for each ADR centre across Queensland in 2008-09, 2009-10 and 2010-11 (reported separately)?
- (2) What were the total employee expenses for ADR in 2008-09, 2009-10 and 2010-11 (reported separately)?
- (3) How many matters were unsuccessfully mediated and referred back to police or courts in 2008-09, 2009-10 and 2010-11 (reported separately)?

- No. 1452 - Asked on Tuesday, 9th October 2007:

Mr Fenlon asked the Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland (Mr Shine) -

With reference to the Dispute Resolution Centre which provides a variety of mediation services –

Will the Minister please list the types of disputes the centre may be able to assist and the processes involved?

- No. 1385 - Asked on Thursday, 6 September 2007:

Mr McArdle asked the Attorney-General and Minister for Justice and Minister assisting the Premier in Western Queensland (Mr Shine) -

With respect to the caseloads of Queensland District and Supreme Courts -

- (1) How many criminal matters were awaiting trial at each of the Queensland District and Supreme Courts as at 30 June 2006 (reported separately by court location)?
- (2) How many criminal matters are awaiting trial at each of the Queensland District and Supreme Courts as at the date of answer (reported separately by court location)?

- No. 1311 - Asked on Tuesday, 4 September 2007:

Ms Croft asked the Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland (Mr Shine) -

Will the Minister outline the benefits of Justice Mediation and how successful this strategy has been?

NOTED or APPROVED / NOT APPROVED		
Attorney-General, Minister for Local Government and Special Minister of State		
Comments		
Paul Lucas MP Attorney-General, Minister for Local Government and Special Minister of State	Senior Policy Advisor	Policy Advisor
/ /	/ /	/ /

Political Representatives

Local Government

Not applicable

State Government

Mrs Cunningham, Member for Gladstone, asked QON 1000 on 16 June 2011 of the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (Mr Lucas).

Mr Bleijie, Member for Kawana, asked QON 738 on 12 May 2011 of the Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State (Mr Lucas)

Federal Government

Not applicable

Contact Officer:	Name: Lindsay Smith Position: Executive Manager Phone: 07 3239 6278 Date: 2 December 2011	Approved by Executive Director:	Name: David Mackie Position: Executive Director - Community Justice Services Phone: 07 3006 9080 Date: 5 December 2011
Approved by Manager:	Name: Terry Ryan Position: Deputy Director-General Phone: 323 96051 Date: 12 December 2011	Endorsed: Philip Reed Director-General	_____
/ /			

Election Commitment

CBRC / Cabinet related

ECM related