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RESEARCH REPORT
PROCESS EVALUATION OF NEVADA'S
STATEWIDE DEPENDENCY MEDIATION
PROGRAM



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NEVADA’S STATEWIDE
DEPENDENCY MEDIATION PROGRAM**

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The National Council of Juvenile and Family Court Judges® (NCJFCJ), affiliated with the University of Nevada, Reno, provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the NCJFCJ has pursued a mission to improve courts and systems practice and raise awareness of the core issues that touch the lives of many of our nation's children and families.

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Executive Summary

Nevada's experience with mediation in dependency and termination of parental rights cases began in the Second Judicial District Court (SJDC), Washoe County and goes back more than a decade to the early 2000s. In 2013, the National Council of Juvenile Family Court Judges (NCJFCJ) conducted a preliminary process and outcome evaluation of the program. In 2016, with funding support from the Nevada Court Improvement Program and the Victims of Crime Act, the mediation program was expanded statewide. The more recent "statewide" mediation program was modeled after the SJDC program, and assigns trained, neutral mediators to dependency and termination of parental rights cases to help resolve contested issues outside of the formal court hearing process. In mediation, parties are able to meet in a neutral setting to address case issues and identify available options with the help of an impartial third party. The overarching goal of the statewide mediation program is to reduce the time to permanency for children involved in abuse and neglect cases. The mediation program also aims to provide participants with an opportunity to clarify their positions, to provide opportunities for parties to speak for themselves and hear others, to understand and resolve legal and non-legal issues, and to build relationships. Previous research in jurisdictions across the country has shown that mediation can enhance case processing (i.e., improve timeliness of court events), increase key participant (i.e., parents, children, relatives, and foster parents) and system stakeholder (i.e., prosecutors, parents' and children's attorneys and advocates, social workers, and others) engagement in the case process, and improve, in a non-adversarial manner, juvenile dependency case outcomes (i.e., reunification, timeliness of child permanency).

NCJFCJ has conducted previous, albeit preliminary, research on the impacts of dependency mediation programs in a number of judicial districts in Nevada including the SJDC, the 5th JD (Esmerelda & Nye Counties), and the 8th JD (Clark County). These initial evaluations found that mediated cases were more likely to result in reunification when compared with non-mediated cases; and that fathers who participated in mediation were present at more court hearings compared to fathers who did not participate.

The Nevada Administrative Office of the Courts (AOC) elected to contract with NCJFCJ again to conduct a process evaluation of the statewide mediation program.¹ The statewide mediation

¹ While the current study involves separate reports for the SJDC and statewide programs, it is important to note that both are now considered components of the statewide Nevada mediation program.

process evaluation described in this report includes aggregate data from seven Nevada Judicial Districts.² In conjunction with the statewide process evaluation, NCJFCJ has also conducted and prepared separate reports for a process evaluation and outcome evaluation of the mediation program in the second judicial district court (SDJC).

As with the SJDC process evaluation, this statewide process evaluation primarily focuses on data obtained from exit surveys completed by participants (e.g., mothers, fathers, children, relatives, foster parents, and others) and professional/system stakeholders (e.g., social workers, deputy district attorneys, attorneys for parents, attorneys for children, and others) at the completion of their mediation sessions.³ The surveys received from each district court were aggregated to present process evaluation findings for the statewide mediation program as a whole. In addition to satisfaction indicators drawn from these surveys, preliminary data were also collected from statewide program case data sheets to provide some initial indicators of statewide program performance and outcomes.

Although mediation is available to be used at any point in a case, the initial analyses conducted for this report showed that most cases used the mediation program at the Termination of Parental Rights (TPR) stage of a case. The predominance of TPR cases in the statewide program is largely a reflection of mediation cases in Clark County which has employed all or most of its mediation sessions in TPR matters, as well as federal and state timelines for dependency cases which leave less time for mediation at the initial petition stage of the case.

The statewide process evaluation involved analyses of 113 participant surveys and 267 professional stakeholder surveys that were completed during the study period (July 2016 through April 2017) to determine satisfaction levels and to prepare suggestions for continued mediation program improvements. These survey figures represent the total numbers of surveys completed by statewide program participants and stakeholders during this 10-month time frame.

² The Nevada Judicial District Courts (JDs) with mediation programs included in the statewide mediation program process evaluation are the 1st JD (Carson and Storey Counties), 3rd JD (Lyon County), 4th JD (Elko), 5th JD (Esmeralda, Mineral and Nye Counties), 8th JD (Clark County), 9th JD (Douglas County), and the 10th JD (Churchill County). Mediation also took place in the 11th JD (Lander, Mineral and Pershing Counties) but data from that JD's mediation are not included in the process evaluation because of timing (i.e., the mediation took place after the date selected to close the study sample and begin analyses). Note: although Mineral County is now part of the 11th JD, at the time of the evaluation Mineral County was in the 5th JD.

³ In some jurisdictions, assistant attorneys general may represent the state in dependency or TPR matters.

Statewide Mediation Program Process Evaluation: Key Findings

- 1.** A substantial majority of program participants (85%) and stakeholders (98%) expressed overall satisfaction with the statewide mediation program;
- 2.** The majority of cases (84%) were able to reach agreement – without mediation, contested issues may have delayed reunification of children with their families and/or delayed other permanency options for children;
- 3.** Participants who expressed satisfaction with mediation (on some questions) reached full or partial agreements more frequently than those who expressed less satisfaction (this finding was shown to be statistically significant for all satisfaction survey questions - see Appendix I);
- 4.** No statistically significant differences between the stage in the case when mediation was held and stakeholder satisfaction with mediation were found. This indicates that stakeholders were generally satisfied with mediation regardless of the type of legal action or case stage; and
- 5.** Almost half of the mediation case data sheets analyzed for this process evaluation showed that mediations resulted in vacated hearings.

Feedback about the Statewide Juvenile Dependency Mediation Program

"The mediation process allows a unique opportunity for all parties, especially parents, to be heard and understood facilitating a resolution that can be supported by all parties rather than in a litigious setting like a courtroom. When given the opportunity to openly discuss issues, many families can identify solutions that best serve the family which can many times result in a better outcome for the child or children."

—Deputy District Attorney

"Walking out with more hope now than the whole 2 years for this case. This is a great way for clients to feel safe and able to let everyone know how you feel and where they stand."

—Parent

"Mediation has had a very positive impact on our child dependency cases. It has empowered parents, children and families at all stages of the case."

—Judge

"This process is very helpful—saves time and resources"

—Social Worker

"Dependency mediation provides a less intimidating, more empowering setting for parents so they can fully express their feelings and concerns and be heard. So often, the "issue" that has the case "stuck" is the result of misinterpretation of something or hurt feelings somewhere along the way. The formal court hearing cannot fully address those issues and while the child welfare agency attempts to allow parents to express themselves during team meetings, there is often a sense of distrust of the agency by the parents. Once the parent is able to express their frustration or concern in a less defensive setting, feel truly heard and have their feelings validated by an independent mediator, we can work through the issue and move the case forward."

—Deputy District Attorney

"Everyone listened to each other with respect and everything was explained clearly."

—Parent

"[This was the] first time parties could have a calm discussion about [the child]"

—Parents' Attorney

"[This] is a good process to discuss the case without court involvement and with lots of room for open discussion."

—Social Worker

"Mediation provides a forum for the voice of the family to be heard in a non-threatening venue. It allows for the possibility of compromise, understanding, and communication, for the most important conversation."

—Social Worker

"We have seen tremendous success sitting down with parents during a mediation and mutually formulating a plan to keep the kids safe. Mediation allows for less adversarial, more effective communication to take place which results in better buy-in by the parents and quicker permanency for the child."

—Deputy District Attorney

"Mediation is an efficient and effective tool that allows parties to create resolutions that are in the best interest of children."

—Juvenile Dependency Court Master

"Mediation has not only resulted in a mutual agreement for resolution in [the cases] we have mediated but the process has provided parents and other stakeholders a voice at the table which has not always been the case. I find the process just as valuable as the result."

—Family Programs Director

"[Mediation] was a forward-looking session [that] did not get caught up in the differences."

—Parents' Attorney

"Thank you for making me feel more comforted."

—Parent

"The chance to be heard was very helpful."

—Parent

Recommendations for Continued Evaluation and Program Improvement

Recommendations

1. Modify the participant and stakeholder exit surveys to enhance their measurement capacity:

- a. *Consider revising the participant and stakeholder survey forms to delineate more specific participant and stakeholder types.* For participants, this could include: Mother, Father, Child, Grandmother, Grandfather, Step parent, Sibling, Legal Guardian, Temporary Guardian, Adoptive Mother, Adoptive Father, Foster Parent, and Other. For stakeholders, this could include: Mother's Attorney, Father's Attorney, Child's Attorney, District Attorney, Social Worker, Social Work Supervisor, CASA, and Other. This would allow expanded and more specific analyses of satisfaction indicators by participant and stakeholder types. For the *stakeholder survey*, applicable items (e.g., #5 and #6) should be broken out to differentiate responses pertaining to clients and those who actually complete the surveys.
- b. *Review and improve participant and stakeholder survey question construction.* Questions on both the participant and stakeholder surveys should be reviewed with an eye to eliminating any double-barreled questions. A double-barreled question is a question composed of more than two separate issues or topics, but which can only have one answer. Double-barreled questions are confusing and there is no way to discern the true intentions of the respondent, rendering analysis difficult. Questions should also be reviewed for applicability to a given stakeholder's role. For example, attorneys for parents should not be asked whether they had the opportunity to voice their opinions, when their role is to voice the wishes of their clients.
- c. *Consider revising item #7 on the Participant Survey form into two questions, as follows: 1) "Did the mediator take steps during mediation to ensure that you were not ignored?" and, 2) Did the mediator take steps that made you feel important?"* While well over 80% of participants responded positively to the existing item 7, it is the only survey item that asks respondents to "Strongly disagree" or "Disagree" in order to show positive feedback. This may confuse some participants and may mute a higher rate of positive responses.

- d. *Consider adding county and judicial district identifier numbers to the surveys.*

This would allow for more specific jurisdictional tracking of survey responses.

However, the use of tracking numbers should not compromise the anonymity of survey respondents

2. *Continue efforts to maximize the number of surveys submitted by participants and stakeholders following mediations.*

As shown in this process evaluation and previous mediation studies, satisfaction surveys continue to be important sources of relevant and valuable information for program administrators, mediators, key stakeholders, and others. Judges and other judicial officers, who order mediation, and mediators themselves, should continue to reinforce the importance of post-mediation survey completion.

3. *Consider revising the statewide case data sheet to capture the frequency of cases in which multiple mediations occur and to distinguish between mediation agreement levels for mothers and fathers.* The statewide mediation program will eventually need to explore options for how to best compile information from the case data sheets and exit surveys, including the number of mediations in a case, on a more routine basis, using an automated database that can produce more current program activity, performance, and outcome data and reports.

4. *Examine in more detail the reasons why some mediation sessions fail to achieve agreements.*

- a. While the vast number of mediations resulted in agreements, when participants and stakeholders were asked why an agreement was not reached, many commented that parties were “*unwilling to agree or compromise.*” The reasons for this unwillingness should be explored in more detail, including whether there is a specific party who is more often unwilling to agree or compromise and why. In order to obtain a clearer picture of individuals’ unwillingness to agree, program administrators may consider providing more detail on their mediator’s report when an agreement is not achieved. This information can then be used to determine if there is something the mediation program can do better in order to overcome resistance to achieving agreements in cases.

- b. Examine in more detail why some participants and stakeholders indicated that when an agreement was not reached it was “*because [they] needed more time.*” Do respondents need an option to extend the mediation time or complete the mediation at another date if they have not been able to reach an agreement in the mediation session? Or perhaps respondents are indicating that they needed more time to think

about the agreement during the mediation itself (e.g., reflect on and process what was discussed). Program administration may wish to modify the mediation surveys to include a question about whether the mediation process allowed for sufficient time to think about the agreement before coming to a decision and/or whether the time allotted for the mediation was sufficient (and if not, why not).

5. ***To better understand the impact of mediation on the workload demands of the court, consider more closely examining the relationship between mediation and vacated hearings.*** Almost half of the mediation case data sheets analyzed for this process evaluation showed that mediations resulted in vacated hearings. This relationship is important to understand because the number of vacated hearings resulting from mediation may be one indicator of an overall reduction in court and key stakeholder workload and time savings (i.e., due to the reduced number of court hearings required in cases). Future studies of the mediation program should consider a closer examination of the relationship between mediation and vacated hearings (i.e., determine whether there are statistically significant relationships between the number of mediations held, levels of agreements, and the number of vacated hearings in cases).
6. ***Expand the use of mediation across the entire life of the case in all judicial districts and particularly in the 8th JD (Clark County) where mediation is primarily used at the TPR stage of cases.*** Previous dependency mediation research has consistently shown that mediation can help promote a number of positive impacts if used at *earlier phases* in a case. Because of the benefits of earlier mediation for “front-loading” the case process (e.g., improved compliance with case plans and improved timeliness of critical court events such as adjudication, disposition, and, ultimately timely permanency), all courts participating in the statewide program should consider the possible benefits and feasibility of mediation at earlier stages. The 8th JD (Clark County), in particular, should consider expanding the use of mediation to the initial stages of cases as that county primarily uses mediation at the TPR stage of a case. While mediation presents a number of benefits in TPR matters, new dependency filings in the 8th JD (Clark County) appear to have increased between FY2012 and 2016. As a result, the 8th JD would benefit from expanding mediation beyond TPR matters to include mediation at all stages of cases as needed.
7. ***Examine, in more detail, the reasons for any mediation no shows.*** Program administration should more fully explore the reasons why parents, as well as other mediation participants and stakeholders, fail to appear for mediations. This can be done

via follow-up with caseworkers and/or parents' attorneys when there is a no-show to identify the reasons for the non-appearance. Determining the causes for a non-appearance may suggest specific ways the program can improve attendance. Determining the barriers for participation can help the program design procedures (or enhance existing ones) to facilitate those parents' mediation participation.

8. ***Examine program implementation of, and adherence to, the existing protocol for mediation when domestic violence is an issue in a case.*** While a protocol for mediation in domestic violence cases exists, it is important to determine whether or not improvements to the protocol are needed to ensure it applies appropriately to the JDMP process and also whether the protocol is consistently applied. Program administration should not only consider conducting additional training on the features of the protocol and how to implement it in cases, but should also gather information about what the current barriers are to fully implement the protocol. Furthermore, mediators should routinely and clearly document the specific things they are doing to follow the protocol. For example, mediators could be asked to complete a "checklist" that details how the mediation protocol has been adhered to in each relevant case. Future evaluations of the statewide mediation program can also be designed to determine the extent to which the domestic violence protocol has been followed.
9. ***Enhance mediator training to include additional strategies for effectively listening to participants and stakeholders and making them feel heard.*** The process evaluation found that when people believed others in the mediation had "really listened" to what they had to say (or had really listened to what their client had to say), they were more likely to express satisfaction with the mediation regardless of the ultimate result (i.e., regardless of whether a full agreement, partial agreement or no agreement was reached). This finding indicates the importance of providing participants and stakeholders in the mediation process with an opportunity to voice their thoughts, opinions, etc., and is consistent with what is known about the relationship between voice and satisfaction from the growing body of national research on mediation programs. Given this robust finding, program administrators should review current mediator training to ensure that mediators are provided with strategies to effectively listen to people and make them feel heard during the mediation process.
10. ***In order to better understand the relationship between the JDMP process and outcomes (i.e., the impacts that the program has on cases), a number of additional follow-up studies are recommended, including:***

- A cost-benefit analysis to determine the savings in time, workload and monetary resources that can be attributed to the JDMP.
- Expand the outcome evaluation already completed in the SJDC⁴ to include other judicial districts in the statewide program (e.g., replicate the outcome evaluation methods used in the SJDC in additional judicial districts). Such an evaluation should not only use the same outcome measures (i.e. timeliness measures, case closures, hearing continuances, vacated hearings, mediation characteristics) to facilitate cross-county comparisons, but should also examine additional relevant outcomes such as: whether mediation has an impact on case re-entries into the system (a measure of safety); whether mediated cases result in increased compliance with case plans; whether mediation decreases out of home placement moves for children; whether mediation increases placement stability for children etc.
- A focused process and outcome evaluation of the mediation program in the 8th JD (Clark County) as it is the most populous county in Nevada. Evaluation should replicate and enhance the process and outcome evaluation methods used in the SJDC and also be expanded to include the additional outcome measures noted above.

⁴ See the SJDC Outcome Evaluation Report [Siegel, G.; Ganasarajah, S.; Gatowski, S.; Sickmund, M.; Devault, A, 2017. *Outcome Evaluation of the Second Judicial District Court's Dependency Mediation Program (Washoe County, Nevada)*. Reno, NV: National Council of Juvenile and Family Court Judges]

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Introduction

The Adoption and Safe Families Act

The Adoption and Safe Families Act of 1997 (ASFA) played a critical role in a wide range of dependency-related reforms across the country by implementing new provisions and modifying existing rules to require that states balance family preservation and family reunification while ensuring that the health and safety of children in foster care is the paramount concern. ASFA was intended to expedite permanency for foster children and to promote adoption for those children who could not safely return home. Some of the biggest changes made by ASFA included shortened time lines for child abuse and neglect court hearings, including establishing that a permanency planning hearing for children in care be held within 12 months of a child's entry into care,⁵ and requiring that a petition to terminate parental rights (TPR) be filed for any child that has been in foster care for 15 out of the most recent 22 months unless specific exceptions exist.⁶ ASFA's passage created additional unfunded mandates for courts necessitating the expansion of alternative dispute resolution mechanisms such as mediation to help courts address the shortened time lines for decision-making in dependency cases imposed by the new law.

Nevada Revised Statutes

In some respects, the time requirements under Nevada Revised Statutes (NRS) 432B are stricter than those in ASFA. For example, while ASFA time requirements for mandatory termination of parental rights filing (42 U.S.C. §675(5)(E)) is 15 months from foster care entry, if the "child is in foster care 15 of the last 22 months." In contrast, NRS 432B.553 specifies "mandatory termination filing if (the) child is out of parent's care 14 of the last 20 months." As such, the Nevada state requirements provide even more impetus for courts to have alternative dispute resolution options, including mediation, available for dependency and TPR matters.

Brief Statewide Dependency Mediation Program Overview

Mediation offers an approach to dependency and TPR cases that allows them to move forward quickly and collaboratively in a non-adversarial setting, avoiding contested trials. It allows everyone involved in the case (e.g., parents, social workers, attorneys, relatives, and sometimes

⁵ 42 USCA. § 675(5)(C)

⁶ 42 USCA § 675(5)(E)

the children themselves) to meet in a safe, neutral, confidential environment to discuss the case and find ways to resolve it. Nevada implemented its statewide dependency mediation program in 2016 to support parents and stakeholders in the child abuse and neglect court system and to help resolve contested matters that may delay or inhibit timely permanency for children.

An overview of the goals of mediation in the Statewide Program

The overall goal of mediation is to use an alternative dispute resolution process to reduce a child's time to permanency. The mediation program provides an opportunity for parties to meet in a neutral setting to address case issues and to identify available case options with the help of an impartial third party. This can enhance case processing timeliness and improve dependency and TPR case outcomes.

Goals of the Statewide Dependency Mediation Program are:

- To create a settlement process which is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model;
- To reduce litigation;
- To improve a child's time to permanency;
- To increase resolution of dependency case issues;
- To improve permanency outcomes for children;
- To decrease out of home placement moves for children; and,
- To allow and promote meaningful participation of children and youth in the dependency case process.

In order to meet these goals, the statewide juvenile dependency mediation program (JDMP) assigns trained, neutral mediators to dependency cases to provide mediation. Mediation is available at all stages of a dependency or TPR case once a petition has been filed. Once ordered by the court, participation in mediation by all parties to the case is mandatory with the exception of domestic violence cases and cases in which a parent lacks the capacity to make a decision in mediation. With respect to domestic violence (DV), Nevada's statewide mediation program has taken into account prior research that indicates that DV is frequently present in child abuse cases. As a result, a DV protocol has been developed for the statewide mediation program which establishes specialized procedures designed to protect victims of DV from intimidation (See Appendix A).

Each judge was asked to recommend 2-3 people from his/her judicial district who might make a good mediator. All of the judicially-recommended potential JDMP mediator candidates were then required to go through facilitative mediation training focused on dependency. Participants who never had mediation training attended a 40 hour class, while those who already had mediation training and experience joined the 40 hour class for the last 20 hours. The class focused on teaching basic mediation skills using examples, videos, exercises and role plays revolving around child abuse and neglect (See Appendix B for the training agenda). After completing the 40 or 20 hour training, participants were required to apply to become mediators for the JDMP and participate in continued vetting by completing an essay on based on mediation scenarios (see Appendix C for the training scenarios) that tested their knowledge of the mediation process applied to dependency. Individuals who were successful at this stage (not all training program graduates made the cut) were further trained through monthly 1 hour training conference calls and co-mediation with the JDMP administrator. In the final month of the fiscal year, all mediators were asked to complete another essay with 1 scenario testing their knowledge of the dependency mediation process.

Mediators use a facilitative model of mediation, a style for which the mediator does not present his or her own views of the case or of the agreement, and is instead focused on ensuring that all parties have an opportunity to be heard and that parties reach an agreement that meets everyone's needs (Riskin, 1994). To ensure fidelity of program design implementation and consistency throughout the state, Nevada CIP contracts with mediators to provide the mediation service ordered by the courts. A lead mediator provides guidance and support to the mediators via co-mediation, monthly conference calls to discuss issues regarding providing the service, and advanced training on difficult issues such as managing highly emotionally charged situations. Co-mediators with the JDMP administrator were scheduled to take place at least once with each mediator on the panel. Nearly all mediators on the JDMP mediation panel experienced at least one such co-mediation. The mediator from the University of Nevada, Las Vegas Boyd School of Law, Saltman Center for Conflict Resolution Mediation Clinic also co-mediated with the mediators conducting mediations in the 8th JD as co-equals. The 10th JD has made it their model to co-mediate every case.

The JDMP developed extensive forms and protocols for the program and created a "toolkit" complete with a video on YouTube (<https://www.youtube.com/watch?v=OaD4M-EaNk>) that fully explained dependency mediation. In addition, a parents' brochure was developed explaining

what parents should expect in the mediation process. The brochure included a place for the judge to note the time, date and location of their mediation.

Prior to the mediation, mediators engage in a number of pre-mediation tasks such as contacting the social worker, attorneys and other participants in advance of the session. On the day of mediation, the mediator provides each parent a brief overview of the mediation process. All parties sign a confidentiality statement prior to the mediation. The statement states that the mediator and participants are not allowed to disclose to anyone else any communications made in a mediation session and that information from a mediation session cannot be used in the court case related to the mediation. However, there are certain circumstances where these protections do not apply. These include new allegations of child abuse and neglect, information about elder abuse or dependent adult abuse, and participants' threat to harm him/herself or someone else. A copy of the confidentiality agreement is attached in Appendix D.

Although preliminary, an analysis of 58 statewide program "case data sheets" that documented the start and end times for mediations found that both the mean and median times for mediation sessions approached 120 minutes (2 hours). At the conclusion of the mediation a mediation agreement is prepared that documents any agreements made in the session. This document is reviewed by all parties, and voluntarily signed by all participants. A copy of the mediation agreement is given to all participants and is forwarded to the court where it is entered into the court's electronic case management system. The judge then enters a court order formalizing the agreement in the case. Alternatively, in lieu of a written agreement, in some judicial districts the court convenes and the mediation participants place the terms of the agreement on the record. The judge may canvas the parties to determine if the agreement was voluntarily entered into. At the conclusion of mediation sessions, all mediation participants are asked to complete a short survey regarding their perceptions of the mediation, the outcome, and how they were treated.

Previous Assessments of the Dependency Mediation Programs in Nevada

In 2013, the Nevada Administrative Office of the Courts (AOC) awarded contracts to NCJFCJ to conduct initial evaluations of mediation programs in the 5th JD (Nye, Mineral & Esmeralda counties) and the 8th JD (Clark County), as well as the SJDC (Washoe County). These previous mediation program assessments, and the corresponding reports released in 2013 and 2014 (MacGill, Summers, Wood & Bohannon, 2013; Summers, Wood, Bohannon, Gonzales & Sicafuse, 2013; Summers, Wood, & Bohannon, 2013; Summers & Bohannon, 2014), found that although there was an overall positive perception that mediation was successful and that it tended

to reduce workload demands, parent attendance at mediation tended to be less than initially hoped. Parent “no-shows,” when they occurred, prevented mediation sessions from being held. The previous studies also identified the need for further outreach and education for system stakeholders in order to improve buy-in for the mediation program.

The initial 2013 process evaluation report of the mediation program in the 8th JD (Clark County) highlighted the overall positive perceptions of that jurisdiction’s dependency mediation program. The results of the evaluation found that despite being a fairly new program, the mediation program created an environment where parents felt they were respected, heard, and treated fairly. It also found that 84% of the cases referred to mediation reached either full or partial agreements. The initial process evaluation of the mediation program in the 5th JD (Esmeralda, Mineral, and Nye counties), in 2014 found very similar results. Both participants and stakeholders had positive perceptions of the mediation program, and parents, also, felt that they were in an environment in which they were respected and treated fairly. Furthermore, surveys and interviews revealed high satisfaction levels with the mediators and their mediating skills. The main limitation to both evaluations was that it was too early in the mediation program to garner more generalizable results and, because the mediation programs were fairly new, buy-in from stakeholders was challenge.

The first and very preliminary outcome evaluation of mediation in the SJDC focused exclusively on TPR cases and included a relatively small number of cases (MacGill, et. al., 2013). The second outcome evaluation in the SJDC (Summers, et. al., 2013) took an initial look at the impacts of mediation in dependency cases, excluding TPR matters. This second evaluation also involved a relatively small number of cases, but it did find that fathers who participated in dependency mediations were present at more hearings compared to fathers who did not participate in mediation. The second study also found that mediated cases were more likely to result in reunification than non-mediated cases.

The previous studies contained a number of recommendations intended to help participating courts continue their mediation program improvement efforts, particularly those related to improving stakeholder engagement and buy-in, reducing (primarily parent) no-shows, identifying options to reduce the length of time for mediation sessions, ensuring that all parties understand mediation agreements, and continuing efforts to educate and reach out to stakeholders to familiarize them with the mediation process and its benefits.

Summary of Key Findings of Past Evaluations of Nevada Dependency Mediation Programs:

- Stakeholders and participants perceived mediation to be successful.
- Stakeholders agreed that mediation lessened their workload in preparation for hearings and in hearings, and is a good alternative to court.
- The majority (84%) of mediations in the 5th JD resulted in agreement.
- Non-professional participants reported feeling heard, respected, and fairly treated.
- Mediated cases had fewer default orders.
- Mediated cases were more likely to result in reunification of the children with their families when compared to non-mediated cases (e.g., among mediated cases that had closed 88% had resulted in reunification, while only 50% of non-mediated closed cases resulted in reunifications).
- Fathers who participated in mediation were more engaged and were present at more hearings compared to fathers who did not participate in mediation (e. g., fathers who participated in mediation attended 72% of all hearings, while those who did not participate in mediation only attended 50% of their hearings).

Purpose of the Current Statewide Program Process Evaluation

The primary purpose of the current process evaluation is to assess participant and stakeholder satisfaction with the mediation process in the statewide program, and to garner preliminary indicators of program performance and mediation outcomes. This process evaluation examines whether mediation is associated with higher satisfaction levels for participants and stakeholders through the use of exit surveys (see Appendices E and F) and is supplemented by an initial analysis of case data sheets compiled by mediators at the completion of each mediation session (see Appendix G). In addition, data on mediation agreement rates are provided by the Nevada Court Improvement Program, which analyzed all JDMP case data sheets for agreements as part of an audit required by the Victims of Crime Act (VOCA).

Literature Review

This section provides an overview of key findings with respect to dependency mediation process and outcomes found in the literature in the field. Findings and the associated publications are organized into five general categories that capture the primary themes of prior mediation research, and that offer a simple framework for organizing and presenting the research content. A more detailed annotated bibliography is also included in Appendix J.

Prior Research

Although most dependency cases are resolved without trials, not all negotiations in contested matters can be conducted with equal expertise and attention (Thoennes, 2000). The sheer number of professionals involved in a case, families' lack of knowledge about the child protection and court systems, crowded dockets, increases in court filings, and associated time demands may often hinder negotiations intended to eschew contested proceedings.

In response to the increased number of dependency filings in many jurisdictions during the mid-1980s, a number of courts around the country began testing the concept of using mediation in dependency courts. By 1999, over a dozen states had mediation programs operating in selected jurisdictions (Thoennes, 2000).

The goals of child protection or dependency mediation programs are typically to:

1. Expedite permanency for children;
2. Shorten the amount of time that a child stays in foster care;
3. Improve case plans and the case planning process;
4. Increase the effectiveness of court hearings;
5. Produce mediation participants' satisfaction;
6. Increase compliance with child protection plans of care or court orders;
7. Reduce the need for further litigation; and
8. Reduce state costs connected with dependency-neglect cases.

Timely Case Resolution and Agreements

Gatowski, Dobbin, Litchfield and Oetjen (2005) conducted an evaluation of the Family Court Child Protection Mediation Program in Washington, DC. The evaluation found that mediation promoted timely resolution of cases, consistent with ASFA mandates. It also found that cases in which mediation was held facilitated more long-term permanency with lower rates of re-entry into care after case closure. Similar results were seen in Thoennes's evaluation of mediation in five California courts (1997). The evaluation in California (Thoennes, 1997) also found that mediation can contribute to settlement at all stages in case processing (e. g., pre- and post-adjudication/disposition). In addition, Thoennes's multi-site review of mediation impacts found that service plans and related agreements are implemented faster in mediation than through traditional case processing (Thoennes, 2009).

In general, the research literature indicates that 60–80% of mediated dependency cases reached full agreements, 10–20% of cases have reached partial agreements, and in only about 10% of cases were agreements not reached (Thoennes, 2009). In some instances, agreement rates have been substantially higher. In North Carolina, for example, an evaluation of the Mecklenburg County mediation program found that 96% of mediated dependency cases resulted in full or partial agreements to resolve contested issues pertaining to legal petitions, case plans, post-adoption contacts, and/or permanent placement decisions (Trosch and Sanders, 2002).

Communication and Engagement

Proponents of dependency mediation suggest that mediation better engages parents in the process of dependency cases compared with non-mediation (Summers, Padilla, Wood, McClellan, & Russell, 2011). Research also indicates that parents often prefer mediation over formal court processes for dispute resolution (Thoennes & Pearson, 1995). This may be due to mediation providing an open and respectful forum rather than the adversarial atmosphere that can occur in contested hearings (Summers et al., 2011; Summers et al., 2013). A more open and respectful forum may also increase participant (e.g., parents and other family members/relatives) and stakeholder (e.g., prosecutors, attorneys, social workers, and others) satisfaction levels (Summers et al., 2011; Summers et al., 2013). The Nevada research also indicated that the majority of parents present at mediation participated at a high level of engagement including asking questions and contributing to discussions.

Research in Nevada also found that mediation can be beneficial for participants other than parents. These other participants may include relatives (biological or fictive, for example) who may not have legal standing in court but who can play important roles in permanency planning for dependent children. Mediation allows them to assist in decision-making and the creation and completion of service plans (Thoennes, 2009).

In addition, research conducted in Nevada found that mediation can also be beneficial to a range of system stakeholders. Satisfaction measures indicated that important stakeholders (i.e., social workers and parent attorneys) felt that mediation increased parental participation with case planning, improved the level of communication with clients, helped to ensure clients understood what they were supposed to do next (i.e., after mediation), offered opportunities for everyone to speak and be heard, and helped move cases forward and avoid delays (Summers, et al., 2013).

Although agreements reached through mediation can be similar to those reached through settlement conferences,⁷ the research in California found that mediated agreements are more likely than other agreements to include visitation plans for children in out-of-home placements (Thoennes, 1997). Additionally, the California study noted that mediated agreements are also more likely to address communication problems between family members, and between the family and the child protection agency when compared to agreements reached through other means such as settlement conferences. Trosch & Sanders' (2002) analysis in Charlotte, North Carolina, found that mediation sessions also improved communication between family members and thus, allowed them to have a better understanding of the child welfare agency's expectations of them. These types of findings reinforce the notion that the benefits of mediation are not limited solely to whether there is an agreement resulting from the mediation or not.

Satisfaction

The prior research in Nevada found that a substantial majority of mediation participants were either somewhat satisfied or very satisfied with the mediation process (Summers et al., 2011; Summers et al., 2013). In these studies, parents and other participants indicated that mediation helped them to better understand the expectations and roles of everyone involved, helped them feel respected and listened to, helped them feel that their input was understood, offered them more time to talk about issues that they deemed were important, and helped them feel that they

⁷ In many jurisdictions, settlement conferences are used before contested hearings in child protection cases in an effort to resolve matters prior to trial. In Nevada, settlement conferences are ordered by the court and conducted by a judicial officer. Settlement conferences generally involve a legal analysis of the case and sometimes an indication from the judicial officer of how s/he might rule on certain issues.

were part of the decision-making process. Parents also indicated that mediation resulted in their questions being answered and parents felt they were treated with respect. Moreover, research beyond Nevada has also shown that satisfaction with mediation is an important contributor to compliance with court rulings and regulations (e.g., Tyler, 1990; Tyler & Huo, 2002).

The evaluation of the Washington DC mediation program revealed that the majority of participants believed that mediation helped them understand others' concerns and provided a better understanding of important case issues (Gatowski et al., 2005). Overall, research across a number of sites has repeatedly found that parents perceive mediation as helpful and a better option than going to court (e. g., Coleman and Ruppel, 2007; Summers et al., 2011; Thoennes, 2001).

Cost Benefits and Efficiency

Previous mediation studies point to the strong possibility that mediation can save substantial time and money. It has been estimated that anywhere from \$637–\$10,000 may be saved for each case that is diverted to mediation at the initial/shelter care hearing (Thoennes, 1999). In Colorado, a cost benefit analysis was conducted to determine the cost-related impacts of mediation (Thoennes, 2000). Using relatively conservative estimates for avoided trials, trial preparation time for attorneys and other stakeholders, expert witnesses, and court-ordered evaluations, the study found that mediation reduced estimated costs by roughly 13% per case. The study further suggests that the money saved through mediation very likely translates into lower caseloads and more time available to conduct substantive case management.

In sum, previous research shows that there are multiple benefits associated with dependency and TPR mediation and that these benefits may occur at a variety of stages in the court process, including early stages of the case. Past process evaluations and outcome studies in different jurisdictions across the country have shown that mediation can contribute to more timely resolution of contested issues, improve communication and engagement across participant and stakeholder groups, increase satisfaction in and understanding of the dependency process, produce tangible cost benefits through diversion from the formal court process, and improve efficiency by reducing the need for contested hearings and reducing case management demands. Considering all of these factors, and the range of other challenges associated with dependency and TPR cases, the research establishes that mediation is a valuable tool in helping courts achieve safe and timely permanency for abused and neglected children.

Methods

This process evaluation of the statewide juvenile dependency mediation program (JDMP) assesses participant and stakeholder perceptions of current mediation practice, examines common themes emerging from this assessment, and offers suggested areas for ongoing evaluation and program improvements. Furthermore, using information collected from case data sheets, a limited number of case characteristics, performance indicators, and basic case outcomes were also analyzed.

The current process evaluation seeks to update the findings of the previous mediation studies in Nevada and answer the following questions:

- What are the challenges and successes with the mediation program?
- Is the mediation program successfully engaging parents and stakeholders?
- Do the parties perceive mediation as helpful?
- What did participants and stakeholders perceive to be the most and least helpful aspects of the mediation program?
- Can the preliminary data collected from the case data sheets offer some initial insights regarding the statewide program?
- In what ways can the program be improved?

Instrumentation and Data Collection Procedures

Mediators hand out paper survey forms at the completion of each mediation event (see Appendices E & F for blank copies of the actual statewide survey forms). The participant surveys (i.e., exit surveys given to parents, relatives, and foster parents) consisted of 13 items and the system stakeholder surveys (i.e., exit surveys given to attorneys, social workers, advocates and others) had 11 items; each survey had a mix of forced choice and open-ended items. The survey items are the same as those used in previous mediation studies in Nevada.

The survey forms do not require respondents to provide any identifying information other than to designate their particular participant or stakeholder role and the date of the mediation. Overall, the survey is intended to capture participant and stakeholder perceptions, post-mediation, on a number of indicators that are considered important by program administrators, mediators, judges, other judicial officers, and other system stakeholders. The survey questions also reflect items that have been used in process evaluations in other jurisdictions.

Case data sheets (Appendix G) are forms that the mediators fill out and attach to a case file at the end of a mediation session. These forms offer a variety of information including basic case characteristics (i.e., judicial district, child's age, type of victimization), mediation characteristics (i.e., focus of mediation, length of mediation), and mediation outcomes (i.e., vacated hearings, agreement types). Once again, for this study, information that could be used to identify individuals involved in these cases was not collected or compiled in order to ensure confidentiality.

Study Group Selection and Description

Seven Nevada Judicial District Courts (JDs) with dependency mediation programs were included in the statewide mediation program process evaluation.⁸ Two groups of survey respondents were involved in the process evaluation—*program participants* (parents, relatives, foster parents, etc.) and *system stakeholders* (social workers, deputy district attorneys, parents' attorneys, advocates, etc.). All 113 participant surveys and all 267 stakeholder surveys that were completed during the June 2016– February 2017 study period were included in the analysis. This assessment did not employ sampling as all of the completed surveys for both study groups (participant and professional/system stakeholders) were included in analyses.

The survey data were then entered into a Microsoft Excel spreadsheet. Multiple researchers, at random points during data entry, would review the spreadsheet to crosscheck entries and ensure the accuracy and reliability of the data. Furthermore, all of the mediation surveys from each of the JDs participating in the study were combined into one “statewide” evaluation study group. As a result, the findings presented in this process evaluation represent aggregate findings for the statewide mediation program *as a whole* and findings are not presented for individual counties. It is also important to note that the bulk of surveys included in the statewide study were from the 8th JD (Clark County) as this jurisdiction is the most populous region of the state. Furthermore, the survey forms themselves do not contain county or judicial district identifiers so it was not possible to break out survey responses by county or judicial district for this analysis.

Analyses

The data entered in MS Excel were imported into Statistical Package for the Social Sciences (SPSS) for analysis. Descriptive and inferential statistical analyses were run using the survey data. Qualitative questions were thematically analyzed to determine if there were any reoccurring

⁸ Supra, note 2.

sentiments among different participants and stakeholders. The results of these analyses will be further explored and discussed in the next section of the report. For more detailed reporting on the statistical analyses please refer to Appendix I.

Results

Nevada Court Improvement Program Victims of Crime Act Audit Data

In June 2017, the Court Improvement Program (CIP) conducted an audit of the Nevada Mediation Program as part of requirements under the Victims of Crime Act (VOCA). Data on all mediation sessions conducted during nearly 12 months (July 2016 through June 2017) were tabulated to determine the rate at which mediated cases were reaching agreements. As seen in Table 1 below, the **agreement rate of the mediation program overall is 84%**. This means that of the 77 mediation sessions that were conducted, 65 of them reached an agreement. Table 1 also illustrates that the agreement rate increased seven percentage points between the first 6 months in 2016 to the second 6 months in 2017 (from 80% to 87%) despite an increased number of cases mediated by the program.

Table 1. Statewide Mediation Program Agreement Rates

	Total Mediated Cases	Agreement Reached	No Agreement Reached	Agreement Rate
Total	77	65	12	84%
2016	25	20	5	80%
2017	52	45	7	87%

Source: Nevada CIP VOCA Audit Data (Jul 26, 2016 – Jun 9, 2017)

To the extent that cases reaching agreements result in improved long-term outcomes and avoid the costs associated with contested trials, mediation may lead to substantial benefits to participants and the court alike. The rate at which agreements are reached is, thus, a useful interim metric prior to analysis of outcome evaluation data on permanency and costs.

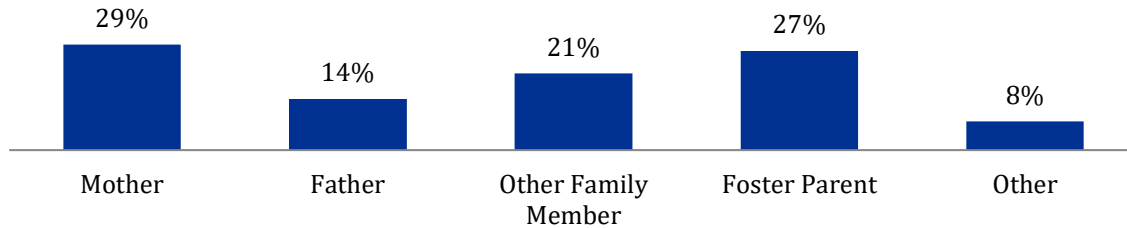
Participant Surveys

Descriptive Analyses

A total of 113 participant surveys were used for the evaluation. Figure 1 (below) provides the breakdown of the types of participants who attended mediation and completed surveys. A majority of the participants were mothers or fathers (43%; n=49) followed by foster parents (27%; n=31). “Other family members” consisted of relatives such as grandparents, aunts, and

uncles (those in the “Other” category were not specific in indicating their relationships to the case but most likely included “fictive” relatives and family friends).

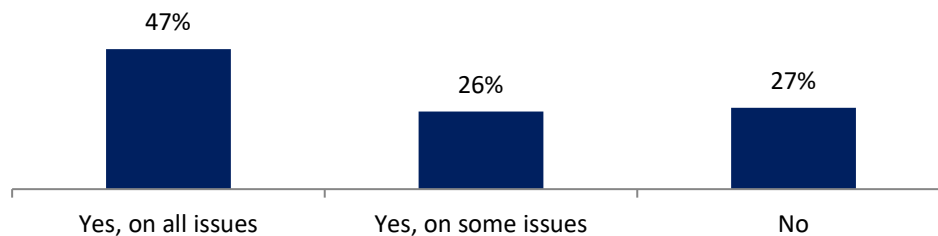
Figure 1. Participant attendance at mediation
N = 113



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 - Feb2017)

Participants were asked in the survey if an agreement was reached during their mediation sessions. At 75% (n=84), participants overwhelmingly indicated that through mediation they perceived that they were able to achieve full or partial agreements (Figure 2, below). It should be noted that these rates of agreements are participants’ perception of whether they reached an agreement. Recall that the total rate of actual agreement was 84% (see the VOCA data presented in Table 1 of the text box at the beginning of the results section).

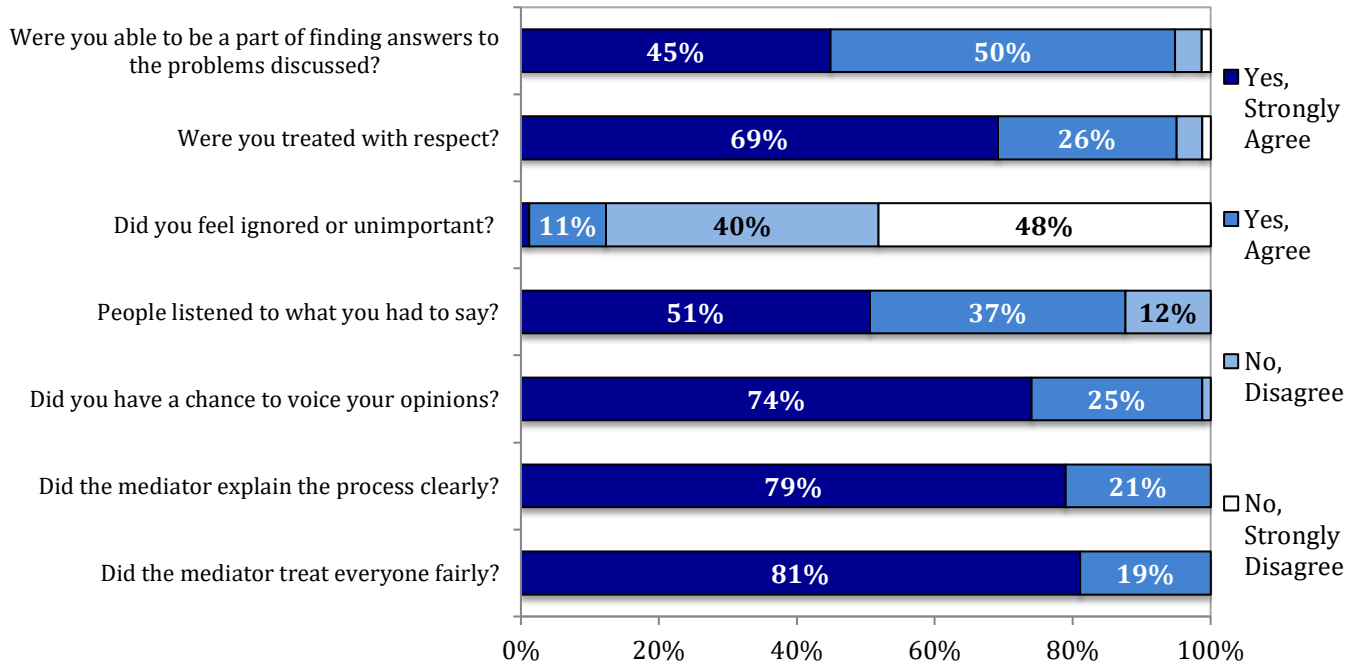
Figure 2. Participants' reports of whether agreement was reached at mediation
N = 112



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 - Feb2017)

Participants were asked to respond to seven questions intended to measure their satisfaction levels with mediation. These items use a four-point rating scale (Yes, Strongly Agree; Yes, Agree; No, Disagree; No, Strongly Disagree). Figure 3, below, displays the variance in participants' responses to the seven satisfaction questions.

Figure 3. Participant satisfaction with mediation



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 - Feb 2017)

Participant responses showing the raw numbers of positive responses from Figure 3 are also summarized below:

Table 2. Positive Satisfaction Responses

Participant survey item	Response was agree or strongly agree	
	Number of Responses	Percentage
1. Did the mediator treat everyone fairly?	111	100%
2. Do you think the other people in mediation really listened to what you had to say?	71	88%
3. Were you able to be a part of finding answers to the problems discussed?	74	95%
4. Were you treated with respect?	77	95%
5. Did you feel ignored or unimportant?*	10	12%
6. Did you have a chance to voice your opinions?	80	99%
7. Did the mediator explain the process clearly?	81	100%

Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 – Feb 2017)

Satisfaction item #5 above deserves some clarification. Unlike the other six satisfaction questions, in order for respondents to indicate, for example, that they did *not* feel ignored or unimportant, they had to respond “Strongly disagree” or “Disagree,” whereas in the other four items, affirmative responses called for participants to “Agree” or “Strongly Agree.” This item may have been purposely worded this way in order to inhibit what is known as the “response set” phenomenon. The response set phenomenon can occur when you have a series of like-worded items in a survey that all call for similarly formatted responses. In brief, such a format can prompt less than careful response patterns as respondents come to expect that all positive comments have to indicate that they agree or strongly agree.

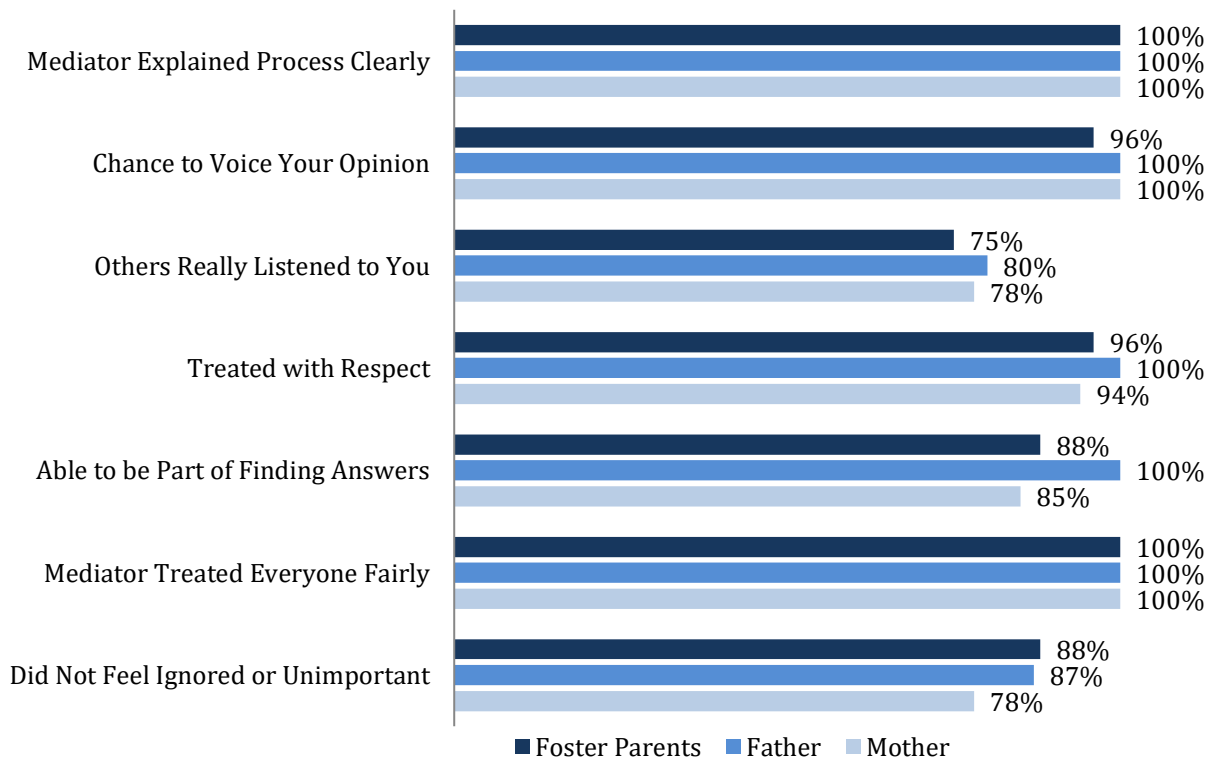
While all of the satisfaction-related items in the participant survey reflect high levels of satisfaction, it may be advisable to revise question #5 to avoid possible respondent confusion that could unintentionally mute the level of positive responses. For example, it could be revised into two questions, “Did the mediator take steps during mediation to ensure that you were not ignored?” And, second, “Did the mediator take steps to make you feel important?”

Participants were overwhelmingly satisfied with the mediation process during the study period. Specifically, participants strongly agreed or agreed that they were treated fairly in the mediation, that they were listened to, that they were involved in the problem-solving process, and had

opportunities to voice their opinions. Overall, a strong majority of participants did not feel ignored or unimportant in the mediation and strongly agreed or agreed that the mediation process had been clearly explained to them. Furthermore, the overwhelming majority of participants felt respected in the mediation process.

Figure 4 provides an additional illustration of participant responses, looking more specifically at the three primary groups (mothers, fathers, foster parents) of mediation participants.⁹ As shown, all three key participant group responses to the seven satisfaction items trended in positive directions. The items with the most variance were, ‘Others Really Listened to You’, ‘Did Not Feel Ignored and Unimportant’, and ‘Able to be Part of Finding Answers’. Again, these results reveal that the vast majority of respondents are satisfied with mediation.

Figure 4. Participant satisfaction with mediation by participant type



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 - Feb 2017)

NOTE: For reasons previously described, the first item in Figure 4 (“Do Not Feel Ignored or Unimportant”) has been rephrased to allow for similar formatting to the other items in the chart

⁹ mothers (n = 33), fathers (n = 14- 15), and foster parents (n = 31)

Statistical Analyses of Participant Surveys

Analyses were run to determine if there were differences between participant relationship types (mother, father, foster parent, other relatives, and others) in their responses to the satisfaction measures. This section will briefly discuss key aspects of these analyses and the respective results.

The statistical tests uncovered one significant difference ($p < .05$) among satisfaction ratings for different participant types or roles (see Appendix I for details). More specifically, the analyses found that, in general, foster parents reported higher satisfaction ratings than some other participants on the following participant survey item:

- Item 6 – Do you think the other people in mediation really listened to what you had to say?

Although this difference was statistically significant, it may not be particularly meaningful. While the statistical analyses identified a significant difference between foster parent responses and other participants' responses, it is important to remember that, overall, the responses of *all* participants to all satisfaction measures were generally very positive. In effect, the findings of statistical significance on this item distinguish between degrees of overall satisfaction and do not compare or distinguish between ratings of satisfied versus not satisfied or limited satisfaction.

Analyses were also run to determine if there was a difference in reported satisfaction levels based on whether full, partial, or no agreement was reached. This section will briefly discuss key aspects of these analyses and the respective results.

The statistical tests uncovered a number of significant differences among satisfaction ratings for cases in which full, partial, or no agreement was reached (also detailed in Appendix I). More specifically, the analyses found that, in general, cases which reached full agreement reported higher satisfaction ratings ($p < .05$) than those that reached partial or no agreement (depending on the survey question). These differences occurred on the following participant survey items:

- Item 3 – The mediator explained the mediation process clearly so I knew what to expect.
- Item 4 – Did you have a chance to voice your opinions?
- Item 6 – Do you think the other people in mediation really listened to what you had to say?
- Item 9 – Were you able to be a part of finding answers to the problems discussed?

Although there were differences that were statistically significant, again, the findings of statistical significance on these items distinguish between degrees of overall satisfaction and do not compare or distinguish between ratings of satisfied versus not satisfied or limited satisfaction.

Further analysis was run to determine if there was a correlation between participant types (mother, father, foster parent, etc.) and perceptions of whether or not an agreement was reached (full, partial, or no agreement). The results indicated that, overall, there was a statistically significant association between one relationship type—“Other” family members—and agreement ($p=.01$), with a larger number of “other” relationship types perceiving that agreement was reached on all issues.

Qualitative Analysis of Participant Responses

Participants were asked four different open-ended questions in the survey. The responses from each of the questions were collected and thematically analyzed to pinpoint and record any re-occurring patterns.

While full or partial agreements were reached in most cases in this study, there were a small number of cases in which no agreements were reached. For these cases, participants were asked “Why do you think an agreement could not be reached?” There were a total of 64 responses to this question. Although the majority of the responses singled out reasons that were unique to each individual case, two re-occurring themes were also expressed in 22% ($n=14$) of the responses. These two themes are illustrated below:



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 – Feb 2017)

Participants who were able to reach an agreement (full or partial) during mediation were asked, “Do you think the mediation agreement will work?” There were a total of 47 responses analyzed for this question with 68% ($n=32$) of the respondents indicating that “Yes” they did believe the

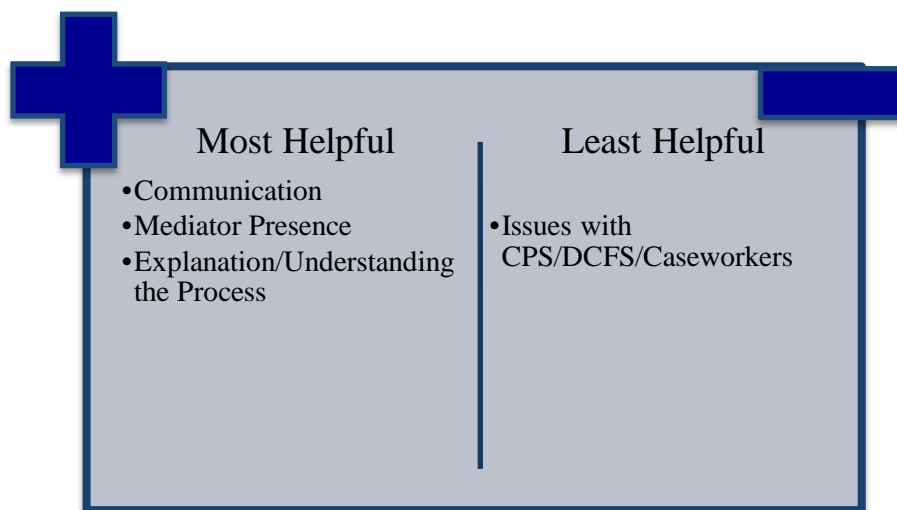
agreement would work, and 28% (n=13) of respondents replying “Maybe/Hope So.” The most common responses to this question are illustrated below with the corresponding percentages.



Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 – Feb 2017)

Finally, the participant survey asks respondents to identify what are the most and least helpful aspects of mediation. A total of 73 responses were analyzed (most helpful aspect, n =54; least helpful aspect, n=19).

When asked what the most helpful aspects of mediation were, 65% (n = 35) of the responses fell within themes that were consistently reiterated. These themes included, communication (66%, n=23), explanations by mediators (20%, n= 7), and mediator presence (14%, n=5). Participants were also asked what they believed the least helpful aspects of mediation were. A total of 19 responses were collected, and only one sentiment was identified as a theme – Issues with CPS/DCFS/Caseworkers (n=4). These themes are illustrated, from most commonly mentioned to least commonly mentioned, in the graphic below:

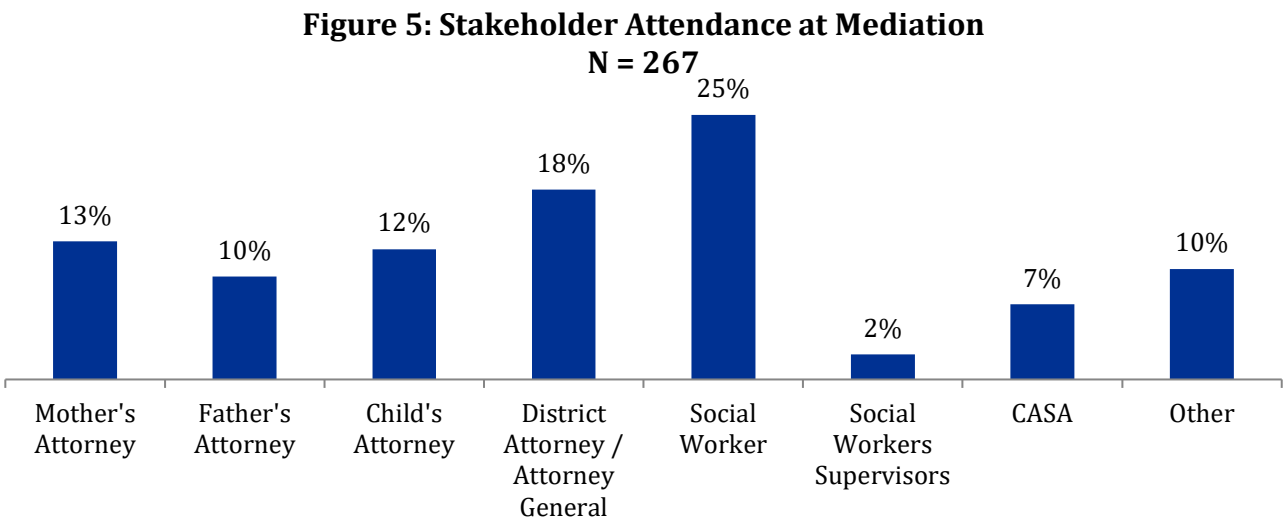


Source: NV Statewide Mediation Program Participant Surveys (Jun 2016 – Feb 2017)

Stakeholder Surveys

Descriptive Analysis

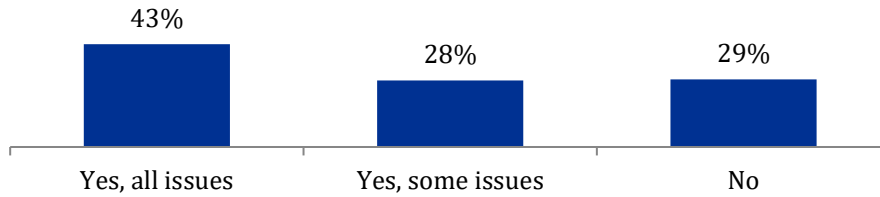
As noted before, professional/system stakeholders received a separate survey at the conclusion of mediation (see Appendix E). A total of 267 stakeholder surveys were collected between June 2016 and February 2017 in the statewide program. Figure 5 below, describes the types of stakeholders who completed mediation exit surveys. Social workers made up a majority of stakeholder respondents (25%; n=67), followed by deputy district attorneys (18%; n=48).



Source: NV Statewide Mediation Program Stakeholder Surveys (Jun 2016 - Feb 2017)

Stakeholders were asked if agreements were reached during their mediation sessions. Responses to this question (item 4 on the survey form) were similar to those that were collected from the participants. At 71% (n=188), a majority of stakeholders indicated that, through mediation, they perceived that they were able to achieve full or partial agreements (see Figure 6 below). Again, these data reflect stakeholder perceptions of agreement. The actual overall agreement rate for mediations in the JDMP was 84% (see VOCA data presented in Table 1 at the beginning of the results section).

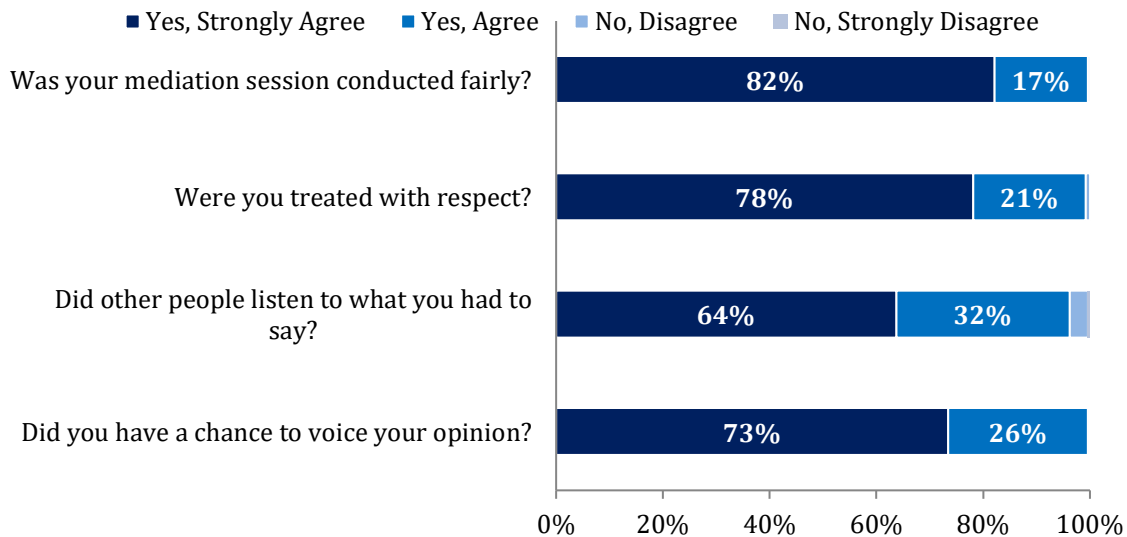
Figure 6: Stakeholders' report of whether agreement reached at mediation
N = 263



Source: NV Statewide Mediation Program Stakeholder Surveys (Jun 2016 - Feb 2017)

Participants were asked to respond to four items (items #5, #6, #7, and #8 on the survey form) measuring their satisfaction with mediation, again, using a 4-point response scale (Yes, Strongly Agree; Yes, Agree; No, Disagree; No, Strongly Disagree). Figure 7, below, reflects the variance in stakeholder responses to the four stakeholder satisfaction questions. As shown, each question yielded positive response ratings of more than 90% (i.e., agree or strongly agree).

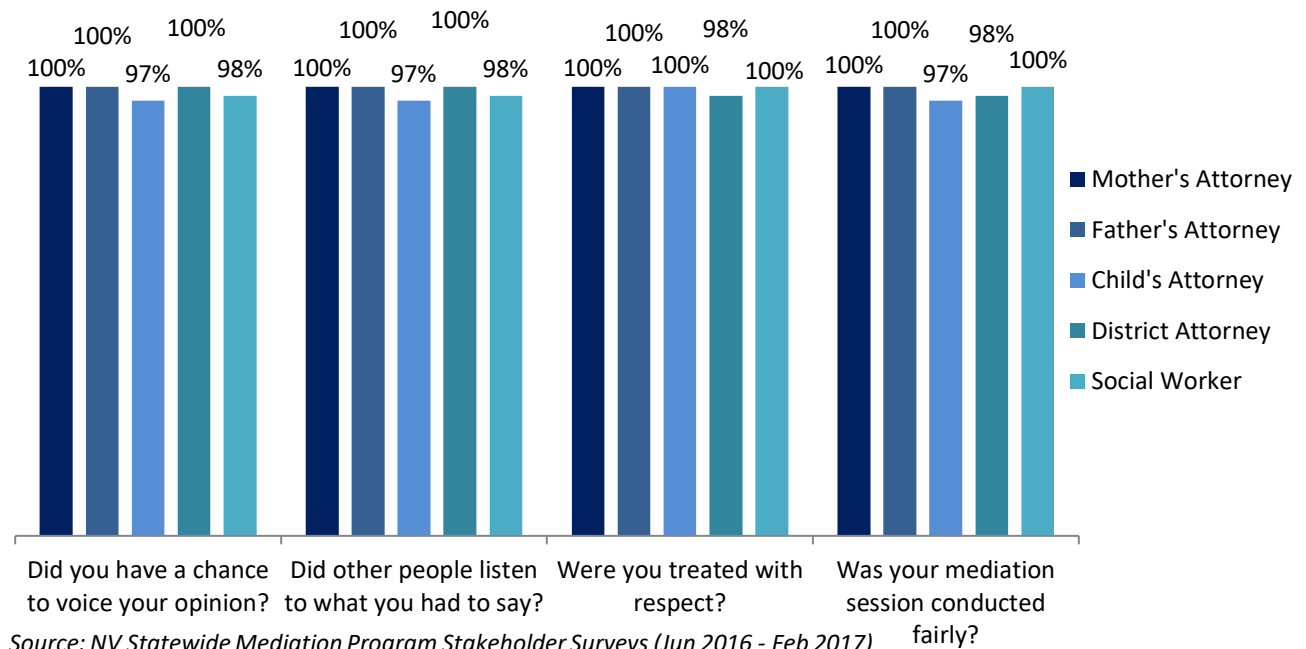
Figure 7: Overall stakeholder satisfaction with mediation



Source: NV Statewide Mediation Program Stakeholder Surveys (Jun 2016 - Feb 2017)

To further specify the levels of stakeholder satisfaction with mediation, Figure 8 below displays the responses of the five primary stakeholder groups— social workers, deputy district attorneys, mother’s attorneys, father’s attorneys, and child’s attorneys—to the four satisfaction items. As shown, all five key stakeholder groups¹⁰ expressed very strong satisfaction ratings in response to these four questions.

Figure 8. Stakeholder satisfaction with mediation by stakeholder type



Statistical Analyses of Stakeholder Surveys

Analyses were run to determine if differences in roles (deputy district attorney, mother’s attorney, father’s attorney, child’s attorney, social worker, social work supervisors, CASA, etc.) had measurable effects on responses to the satisfaction survey questions. The statistical analyses found that a stakeholder’s role did *not* have a significant effect on whether the individual felt they had a chance to voice their position, felt really listened to, were treated with respect, or whether the mediation was conducted fairly (again, see Appendix I for statistical significance tests). Therefore, regardless of their specific role, all stakeholders had positive responses to these items.

Analyses were also run to determine if there was a difference in reported satisfaction levels based on whether full, partial, or no agreement was reached. The statistical tests uncovered a significant

¹⁰ Mother’s Attorney (n = 35), Father’s Attorney (n = 26), Child’s Attorney (n = 32 -33), District Attorney/Attorneys General (n = 47) and Social Worker (n = 65-66)

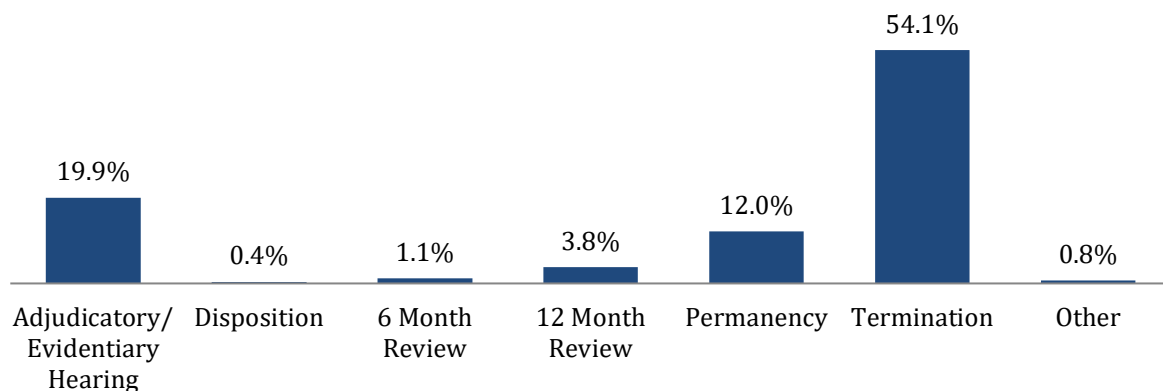
difference ($p < .05$) among satisfaction ratings for cases in which full, partial, or no agreement was reached for one survey item, as indicated below.

- Item 6 – Do you think the other people in mediation really listened to what you (or your client) had to say?

As noted previously in the participant section, while this analysis identified one item that reached statistical significance, it is important to remember that, overall, the responses of stakeholders to these satisfaction measures were generally very positive. In effect, the findings of statistical significance on this item distinguish between degrees of overall satisfaction and do not compare or distinguish between ratings of satisfied versus not satisfied or limited satisfaction.

Figure 9 depicts when in the dependency or TPR case mediation took place. Specifically, Figure 9 breaks down the different pending legal actions or case stages that were to occur soon after mediations were held. Over half of the cases (54.1%; $n=53$) were pending termination of parental rights. Statistical analyses were run to determine if there were differences between the legal actions pending or case stages and responses of stakeholders to the four satisfaction questions. No statistically significant differences between the legal actions pending and stakeholder responses to the four satisfaction items were found. This indicates that stakeholders were generally satisfied with mediation regardless of the pending legal action or case stage.

Figure 9. Types of Legal Action Pending
N = 266



Source: NV Statewide Mediation Program Stakeholder Surveys (2016 - 2017)

Qualitative Analyses of Stakeholder Responses

As with participants, stakeholders were asked four different open-ended questions in the survey (see Appendix E, items #4A, #4B, #9, and #10). The responses for each of the questions were compiled and thematically analyzed to pinpoint and record any re-occurring patterns within their responses.

Stakeholders were asked why they thought certain cases could or could not reach agreement. A total of 134 comments were compiled and thematically analyzed. While the majority of these 134 responses singled out reasons that were unique to individual cases, a few common sentiments surfaced in the responses. Aside from the more individualized comments, the most common stakeholder sentiment as to why agreements could not be made during mediation involved parties being “Unwilling to Agree/Compromise” (n=24), while “Having better discussions” was shown to be the main reason for reaching an agreement (n=11).

The most common themes identified, in descending order, in the qualitative analyses include:

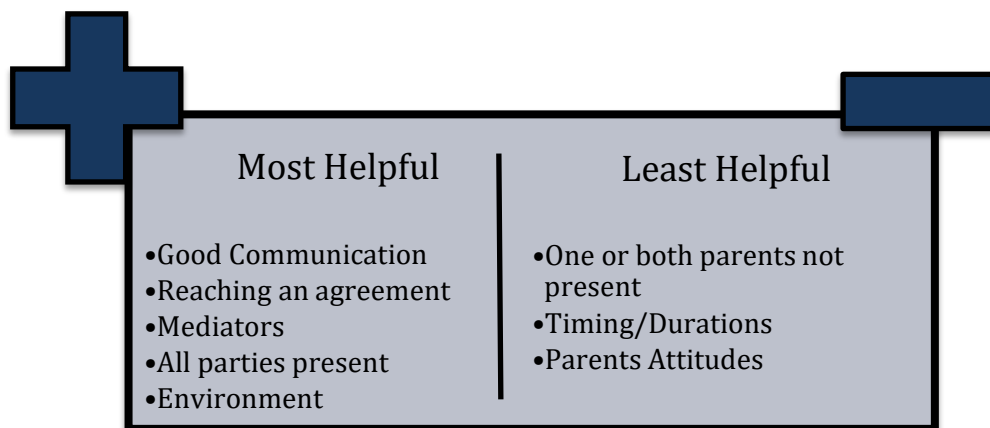


Source: NV Statewide Mediation Program Stakeholder Surveys (Jun 2016 – Feb 2017)

Interestingly, time is one of the salient factors identified by stakeholders to explain why agreements were not reached. Some respondents commented in the surveys that they believed that mediation was not long enough for all the parties involved to reach agreements, while other stakeholders perceived the duration of mediations to be the right amount of time to reach agreements. As noted previously, preliminary examination of the actual time spent in mediation sessions produced a median of 120 minutes (2 hours).

Finally, stakeholders were asked what they perceived to be the most and least helpful aspects of mediation. Several recurring themes emerged. The highest number of stakeholder responses (n=73) regarding the most helpful aspects indicated that mediation allowed for “good communication.” Other aspects that were most often noted as being the helpful were “Being able to reach an agreement” (n = 14), “the mediators themselves” (n = 12), and “having all parties present” (n = 10).

As for the least helpful aspects of mediation, it is important to note that only a small minority of stakeholder respondents (roughly 4%) listed least helpful comments. For example, “Having one or both parents not present” was identified as the least helpful aspect by 10 respondents. This may be due to the fact that mediations do not move forward if parents do not show up. Nine respondents indicated that the least helpful aspect of mediation were the timing/duration of mediation sessions” and “parents attitudes” (both with n’s = 9). While the comments about the least helpful aspects should be carefully considered for future program improvements, it should be re-emphasized that the overall number of comments were overwhelmingly positive.



Source: NV Statewide Mediation Program Stakeholder Surveys (Jun 2016 -Feb 2017)

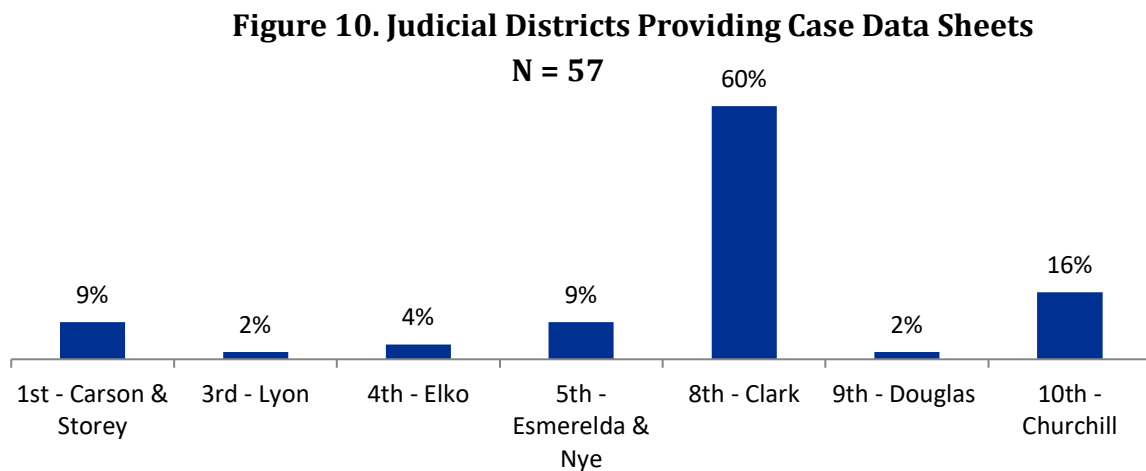
Case Data Sheets

Case Characteristics

The case data sheet is an internal data collection form used by mediators. It is filled out by mediators at the end of a mediation session and is then attached to a mediation case file. The case data sheets allow for the collection of some basic but important information including case characteristics, mediation characteristics, and mediation performance indicators (e.g., time),

whether or not there were previous mediations) and mediation outcomes (e.g., types of agreements, vacated hearings). While the data collected may not be as comprehensive as reviewing court case files (as was done in the latest SJDC outcome evaluation), it does present some important, albeit preliminary information, on the functioning of the statewide mediation program. A total of 58 case data sheets were analyzed for the statewide program.

The statewide mediation program provided case data sheets from several jurisdictions. Figure 10, below, displays the different judicial districts that provided case data sheets. As shown, 60% of the case data sheets were from the 8th JD (Clark County). This reflects the fact that Clark County is, by far, the most populous county in Nevada (with roughly 75% of the state population) and has the highest number of dependency and TPR cases in the state.



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017)

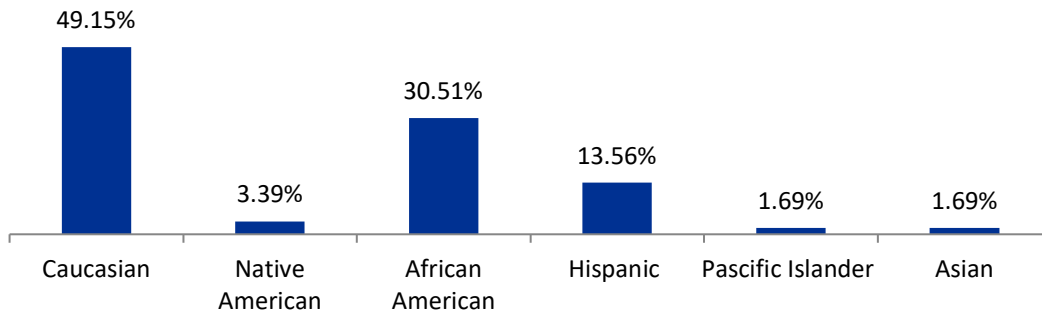
With respect to case characteristics or demographics, the data sheets indicated that the mean age of children in the cases that went through the mediation program during the study period was 6.8 years old. The data sheets also indicated that the ages of the children in cases in the mediation program ranged from 3 months old to 16 years old, and 94% of the children whose cases went to mediation had siblings.

The case data sheets also contain race/ethnicity and gender identity of the children involved in cases in the mediation program. Figure 11¹¹, below, indicates that the majority of the cases that go through mediation in the statewide program involved children who are Caucasian, followed by African American and Hispanic children. Figure 12, below, shows that equal numbers of male and female children are involved in statewide mediation program cases.

¹¹ One case data sheet was missing judicial district information.

Figure 11. Child's Race / Ethnicity in Sample of Mediated Cases

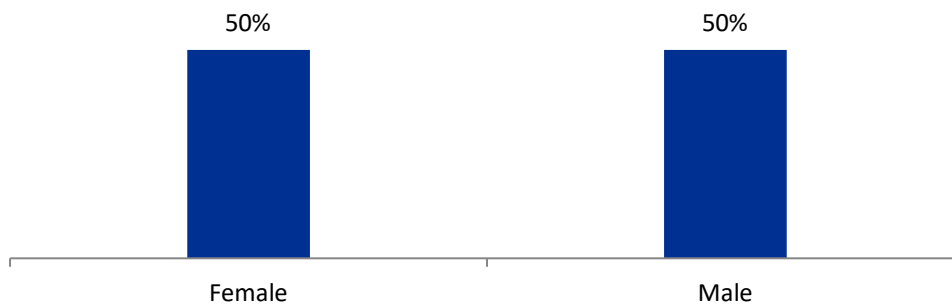
N = 59



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017)

Figure 12. Child's Gender in Sample of Mediated Cases

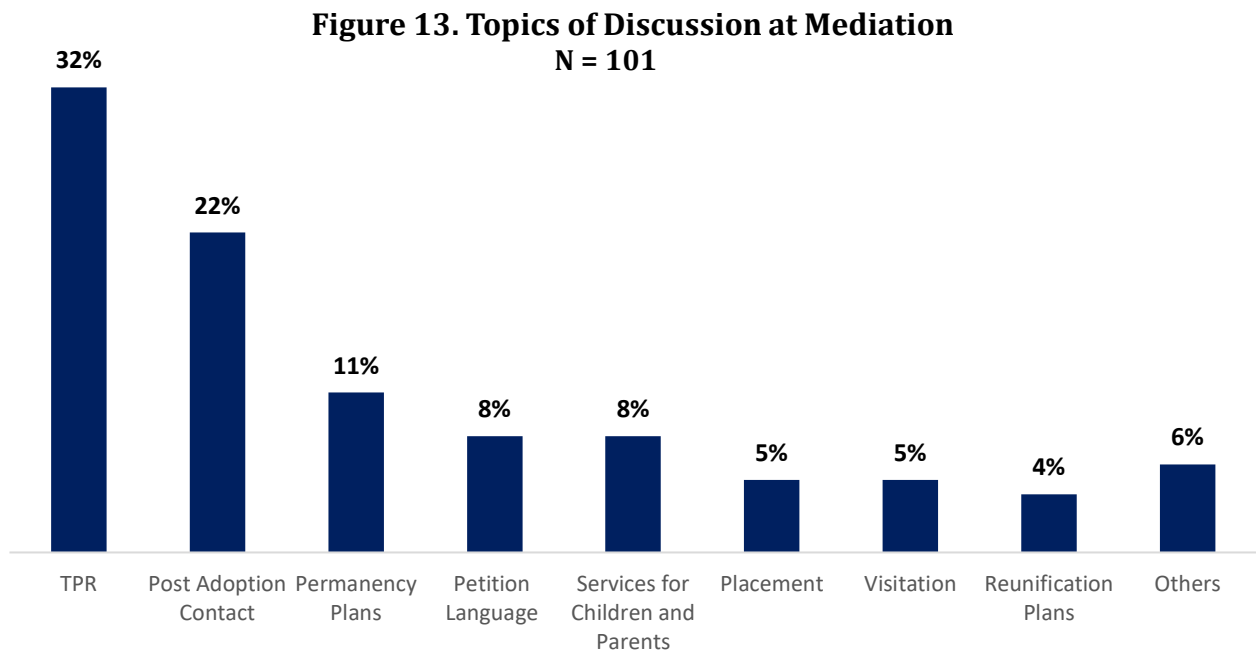
N = 58



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017)

Mediation Characteristics

Data from the case data sheets also provide an initial look at different characteristics and performance indicators associated with mediation. These characteristics and indicators include the focus of, or topics covered during mediation, whether or not mediation resulted in vacated hearings, and the start and end times of the mediation session.



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017)

Figure 13, above, shows a breakdown of the different topics covered during mediation sessions. Termination of Parental Rights (TPR) was found to be the most commonly discussed topic, followed by post-adoption contact and permanency plans. ‘Others’ were comprised of mediations that covered dismissal orders, education, or post guardianship contact. Of course, each mediation session may have overlap in discussion issues (e.g., one mediation session can discuss TPR and post-adoption contact and placement).

Some points of clarification here. Mediation focuses on contested issues and thus it is important to understand that in many cases, key issues like visitation between parents and children may not be in dispute (for example, visitation with parents may be a key uncontested aspect in a dependency case and the social worker’s case plan approved by the court). If the issue is not disputed it would probably not be the focus of mediation. In TPR cases, of course, visitation may be specifically prohibited by the court and thus, not be discussed in mediation. Lastly, as discussed earlier, the bulk of mediation events in the 8th JD involved TPR matters and because

most of the case data sheets were from the 8th JD, the focus of mediation topics tends to reflect topics noted in Clark County. Future analyses that, presumably, would involve larger numbers of cases, should consider taking a closer look at specific mediation topics covered in specific jurisdictions.

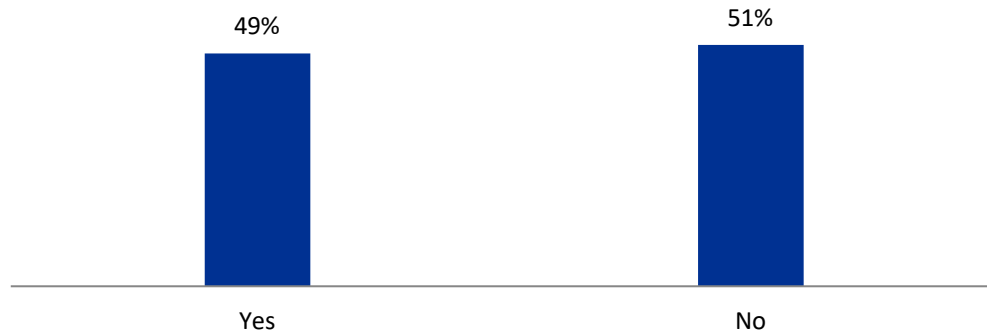
The mediation outcomes for the 58 case data sheets collected between June 2016 and February 2017 were charted and it was found that the majority of the cases (69%) reached agreement or partial agreement (verbal or written). Figure 14, below, shows the different mediation outcomes. According to the case data sheets, only 7% of cases during the study period had previous mediation sessions. In other words, for the vast majority of cases, this was the first mediation session held. Furthermore, the latest data from the Nevada CIP VOCA audit illustrated that as of June 2017 the agreement rate increased to 84%.

In terms of agreements, there are some cases that have different levels of agreement (or no agreement) between mothers and fathers. As it stands now, the case data sheet does not indicate these distinctions, though some mediators make hand-written notes to this effect. The statewide program may want to amend the case data sheet to more specifically track levels/types of agreements for different parents. Furthermore, while the case data sheets contain a field indicating whether or not there had been previous mediation, it was not possible in this analysis to determine the extent of multiple or separate mediation events during the study period.

Mediation Outcomes

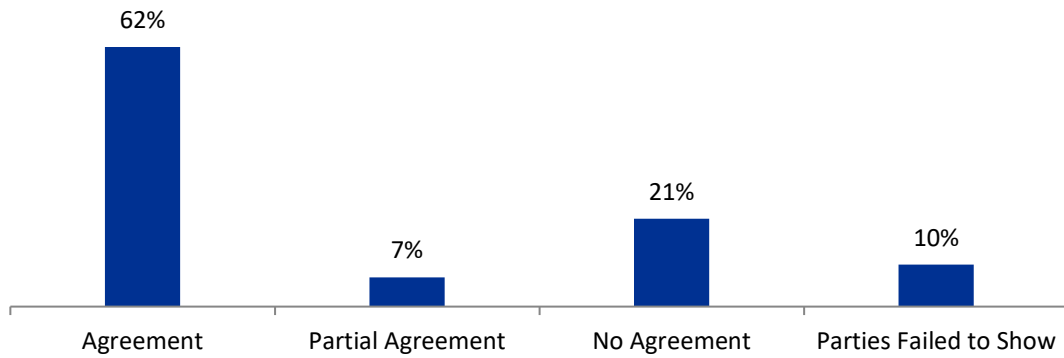
Finally, regarding outcomes, the data were analyzed to determine if the mediation sessions resulted in any vacated hearings. This is an important factor to understand because vacated hearings may be one indicator of reductions in hearing frequency. They may also indicate time and workload savings for the court and key stakeholders involved in these cases, including possible reductions in court docket demands. As shown in Figure 15 below, almost half of the cases resulted in vacated hearings. Future studies, particularly in the 8th JD (which handles the bulk of dependency and TPR matters in Nevada) and the 2nd (which does the most mediations) should consider closer examination of these aspects, including whether there are statistically significant relationships between the number of mediations held, levels of agreement, and the number of vacated hearings.

Figure 15. Did Mediation Result in a Vacated Hearing?
N = 55



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017)

Figure 14. Outcomes of Mediation
N = 58



Source: Statewide Juvenile Dependency Mediation Program Case Data Forms (Jun 2016 - Feb 2017); See also data on agreement rates from NV CIP VOCA audit, which indicates overall agreement rate of 84%

Discussion

Summary of Satisfaction Survey and Case Data Sheet Findings

Overall, statewide mediation program participants and professional stakeholders (regardless of type of participant, professional/system stakeholder's specific role or stage at which the mediation occurred) reported being very satisfied with the mediation process. The majority of mediation participants and stakeholders also reported that the mediator had explained the mediation process clearly. Given that previous process evaluations of Nevada's dependency mediation program recommended that the program do a better job of explaining mediation to participants and stakeholders, this finding indicates that positive strides have been made to improve understanding of the mediation process.

With respect to mediation participants (e.g., mothers, fathers, etc.) specifically, the majority completing surveys in the statewide evaluation reported being fairly treated, listened to, part of finding answers in their case, having had an opportunity for voice, and were made to feel important. These findings have important implications for understanding the value of mediation as an alternative dispute resolution tool since a considerable body of research indicates that when mediation participants report high levels of satisfaction with the mediation process, are treated fairly and with respect, and are given the opportunity to voice issues, their compliance with court rulings and orders increases (see for example Tyler, 1990; Tyler & Huo, 2002).

Not only did participants and stakeholders report being highly satisfied with their mediation experience generally, but the JDMP was also able to achieve a high rate of agreement (84% as of June 2017) in cases. This result may reflect the extensive piloting and continuous quality improvement efforts that the mediation program engaged in in its developmental stages, concerted efforts by program administrators to communicate the benefits of mediation to obtain buy-in from stakeholders, the skill of the mediators, and the time and attention devoted to their training. Initially, four pilot mediation projects using the same mediation model were launched and evaluated (e.g. a process and outcome study of the 2nd, a process evaluation of the 8th and a process evaluation of the 5th JDs programs). Findings from those studies were used to continually improve and fine-tune the mediation programs and to inform the implementation of the mediation programs in the other judicial districts. Program administrators ensured judges and stakeholders were primed and eager to use the program through communication and training efforts

implemented at all of the state's Community Improvement Councils (CICs),¹² and via the CIC quarterly newsletter which discussed mediation success throughout the state, as well as panel discussions and presentations on dependency mediation at the state's Summit conferences on child protection. With respect to the mediators themselves, the JDMP instituted a rigorous training program and selected only the best graduates of the program to serve on the JDMP panel or pool of mediators. Mediators have access to continued coaching or mentoring by the program administrator—an experienced mediator who also maintains communication with the courts, stakeholders and participants about mediation, including monthly conference calls to address any issues that arise.

The initial analyses of a limited number of case data sheets from the statewide program found that most mediation events focused on TPR matters, although this finding may actually reflect Clark County's typical mediation practice rather than practice in other counties as Clark County provided 60% of the case data sheets used in this evaluation. The analysis of case data sheets also revealed that approximately half of the mediated cases in the statewide study group resulted in at least one vacated hearing. This finding may indicate a possible workload savings for the court as a result of the mediation program (i.e., a reduction in the need for a contested court hearing in the matter). With an overall agreement rate of 84% for mediated cases, it seems fair to assume that the statewide mediation program is helping to resolve important issues that, if not resolved, could result in costly contested trials.

Limitations of the process evaluation

The process evaluation findings are limited in that they only assess participant and stakeholder perceptions of the mediation process and program, and examine a limited number of case data sheets. While satisfaction surveys and case data sheets do shed light on important aspects of the statewide program, surveys by themselves and the small number of case data sheets do not provide sufficient empirical indications of the ways mediation may contribute to positive case outcomes. For that, readers should also refer to the SJDC outcome evaluation report, which outlines the positive impacts mediation has on the outcomes of dependency and TPR cases in the SJDC. These positive impacts include, but are not limited to: mediated cases exhibited a higher

¹² Every judicial district in the state has created a Community Improvement Council (CIC) of local stakeholders designed to help children move into permanent homes more quickly. The CIC effort brings together court, attorney, child welfare stakeholders as well as community non-profit leaders together to identify barriers to timely reunification with parents or adoption and to develop and implement locally-tailored solutions to these barriers. For more information about the CICs see http://nvcourts.gov/AOC/Featured_Programs/Community_Improvement_Councils_Aid_Local_Courts/

reunification rate with both parents than control group non-mediated cases; mediated cases that closed due to reunification took substantially less time to achieve reunification when compared to non-mediated control group cases; and mediated cases experienced fewer continued court hearings and more vacated hearings than non-mediated control group cases (indicating a potential reduction in the court's docket demands).¹³

The statewide mediation program process evaluation combined participant and stakeholder surveys received from each of the JD's, as well as the case data sheets, and presented aggregate findings for the state as a whole. While this approach provides an overall picture of the mediation process in the state it does not allow for examination of any differences in the individual JD's implementation of the mediation program.

As discussed earlier, because Clark County represents a disproportionate segment of the state's population (roughly 75%) and thus, would be expected to have the largest number of mediations, and because this study was not able to separate out survey responses by county/JD, it is safe to assume that the results shown here are largely reflective of the 8th JD. Less populous counties, of course, may have programmatic aspects and needs that are different from the 8th JD, and thus, it seems advisable for the statewide program to consider adding either county or JD identifiers to the survey forms to capture more site-specific information while maintaining anonymity.

While the existing surveys currently generate useful information that can assist the statewide program to track and monitor participant and stakeholder perceptions of their mediation experience, the current exit surveys' capacity for measuring satisfaction could be enhanced. It may be useful, for example, for the program to add more specific participant relationship categories or types to the survey form (such as grandparent, sibling, step-parent, prospective adoptive parent, etc.). These added categories or types would help clarify relationships and allow for more specific delineations of who is attending mediation and their respective satisfaction levels. On the stakeholder surveys, to be more precise, the survey instrument should include social worker supervisor as a category.

It may also be advisable to revise item #7 on the Participant Survey form into two questions, as follows: 1) "Did the mediator take steps during mediation to ensure that you were not ignored?" and, 2) Did the mediator take steps that made you feel important?" While well over 80% of

¹³ Siegel, G.; Ganasarajah, S.; Gatowski, S.; Sickmund, M.; Devault, A, 2017. *Outcome Evaluation of the Second Judicial District Court's Dependency Mediation Program (Washoe County, Nevada)*. Reno, NV: National Council of Juvenile and Family Court Judges.

participants responded positively to the existing item 7, it is the only survey item that asks respondents to “Strongly disagree” or “Disagree” in order to show positive feedback. This may confuse some participants and may mute a higher rate of positive responses.

Furthermore, the participant and stakeholder surveys should be reviewed to eliminate all double-barreled questions. Double-barreled questions are questions that touch upon more than one issue yet allows the respondent to provide only one answer. These questions may result in inaccuracies in the attitudes or opinions being measured by the question as the respondent can only answer one of the two questions and cannot indicate which one is being answered.

In the current stakeholder survey, there are two questions that could be answered as pertaining to the stakeholder themselves or their clients. For example, survey item #5 on the stakeholder survey reads, “Did you (or your client) have a chance to voice your opinions?” The stakeholder could answer this as “Did you have a chance to voice your own opinions?” or “Did your client have a chance to voice their opinions?” Interpreting the response to this question is problematic.

In addition, survey items such as item #5 should be reviewed to ensure they are more nuanced with respect to the stakeholder’s specific role. Because parents’ attorneys, for example, should be offering their client’s opinion or position rather than expressing their own opinions, better questions are “Did your client have a chance to voice their opinions?” and “Did you have a chance to voice your client’s position?”

Conclusion

This updated Statewide Mediation Program Process Evaluation reveals a range of encouraging findings including strong satisfaction with the program as expressed by participants and stakeholders and a high agreement rate. When taken in conjunction with the accompanying SJDC Dependency Mediation Program Process Evaluation and Outcome Evaluation studies, the benefits and importance of Nevada's mediation programs become even more evident. With new state-initiated TPR filings having increased almost 14% statewide (from 508 to 578) between state fiscal years 2012 and 2016, and with new dependency (juvenile abuse/neglect) filings statewide vacillating between a high of 2908 in FY2014 and 2180 in FY2016, and with new dependency filings in Clark County (the 8th JD) increased by just under 6% (from 1439 to 1522), it is hard to imagine how the district courts could effectively manage their dependency and TPR caseloads without mediation and other alternative dispute resolution options.¹⁴

Planning, designing and operating a successful dependency mediation program is a challenging task that involves obtaining judicial support, bringing together the various child protection stakeholders, funding, and, in some cases, fostering a paradigm shift that creates greater collaboration between and among the stakeholders and participants, and a commitment by all to thoroughly include families in the decision-making process. While the statewide mediation program exhibits many strong attributes, including those related to participant and stakeholder satisfaction, this report outlines a number of recommendations for the statewide program to consider as it continues its efforts to improve program performance and impacts.

Recommendations for Continued Evaluation and Program Improvement

Recommendations

1. *Modify the participant and stakeholder exit surveys to enhance their measurement capacity:*
 - a. *Consider revising the participant and stakeholder survey forms to delineate more specific participant and stakeholder types.* For participants, this could include: Mother, Father, Child, Grandmother, Grandfather, Step parent, Sibling, Legal Guardian, Temporary Guardian, Adoptive Mother, Adoptive Father, Foster Parent, and Other. For stakeholders, this could include: Mother's Attorney,

¹⁴ Source: Annual Reports of the Nevada Judiciary, Appendix Tables, Fiscal Years 2012-1014.

Father's Attorney, Child's Attorney, District Attorney, Social Worker, Social Work Supervisor, CASA, and Other. This would allow expanded and more specific analyses of satisfaction indicators by participant and stakeholder types. For the *stakeholder survey*, applicable items (e.g., #5 and #6) should be broken out to differentiate responses pertaining to clients and those who actually complete the surveys.

- b. *Review and improve participant and stakeholder survey question construction.* Questions on both the participant and stakeholder surveys should be reviewed with an eye to eliminating any double-barreled questions. A double-barreled question is a question composed of more than two separate issues or topics, but which can only have one answer. Double-barreled questions are confusing and there is no way to discern the true intentions of the respondent, rendering analysis difficult. Questions should also be reviewed for applicability to a given stakeholder's role. For example, attorneys for parents should not be asked whether they had the opportunity to voice their opinions, when their role is to voice the wishes of their clients.
- c. *Consider revising item #7 on the Participant Survey form into two questions, as follows: 1) "Did the mediator take steps during mediation to ensure that you were not ignored?" and, 2) Did the mediator take steps that made you feel important?"* While well over 80% of participants responded positively to the existing item 7, it is the only survey item that asks respondents to "Strongly disagree" or "Disagree" in order to show positive feedback. This may confuse some participants and may mute a higher rate of positive responses.
- d. *Consider adding county and judicial district identifier numbers to the surveys.* This would allow for more specific jurisdictional tracking of survey responses. However, the use of tracking numbers should not compromise the anonymity of survey respondents

- 2. ***Continue efforts to maximize the number of surveys submitted by participants and stakeholders following mediations.*** As shown in this process evaluation and previous mediation studies, satisfaction surveys continue to be important sources of relevant and valuable information for program administrators, mediators, key stakeholders, and others. Judges and other judicial officers, who order mediation, and mediators themselves, should continue to reinforce the importance of post-mediation survey completion.

3. ***Consider revising the statewide case data sheet to capture the frequency of cases in which multiple mediations occur and to distinguish between mediation agreement levels for mothers and fathers.*** The statewide mediation program will eventually need to explore options for how to best compile information from the case data sheets and exit surveys, including the number of mediations in a case, on a more routine basis, using an automated database that can produce more current program activity, performance, and outcome data and reports.
4. ***Examine in more detail the reasons why some mediation sessions fail to achieve agreements.***
 - a. While the vast number of mediations resulted in agreements, when participants and stakeholders were asked why an agreement was not reached, many commented that parties were “*unwilling to agree or compromise.*” The reasons for this unwillingness should be explored in more detail, including whether there is a specific party who is more often unwilling to agree or compromise and why. In order to obtain a clearer picture of individuals’ unwillingness to agree, program administrators may consider providing more detail on their mediator’s report when an agreement is not achieved. This information can then be used to determine if there is something the mediation program can do better in order to overcome resistance to achieving agreements in cases.
 - b. Examine in more detail why some participants and stakeholders indicated that when an agreement was not reached it was “*because [they] needed more time.*” Do respondents need an option to extend the mediation time or complete the mediation at another date if they have not been able to reach an agreement in the mediation sessions? Or perhaps respondents are indicating that they needed more time to think about the agreement during the mediation itself (e.g., reflect on and process what was discussed). Program administration may wish to modify the mediation surveys to include a question about whether the mediation process allowed for sufficient time to think about the agreement before coming to a decision and/or whether the time allotted for the mediation was sufficient (and if not, why not).
5. ***To better understand the impact of mediation on the workload demands of the court, consider more closely examining the relationship between mediation and vacated hearings.*** Almost half of the mediation case data sheets analyzed for this process evaluation showed that mediations resulted in vacated hearings. This relationship is

important to understand because the number of vacated hearings resulting from mediation may be one indicator of an overall reduction in court and key stakeholder workload and time savings (i.e., due to the reduced number of court hearings required in cases). Future studies of the mediation program should consider a closer examination of the relationship between mediation and vacated hearings (i.e., determine whether there are statistically significant relationships between the number of mediations held, levels of agreements, and the number of vacated hearings in cases).

6. ***Expand the use of mediation across the entire life of the case in all judicial districts and particularly in the 8th JD (Clark County) where mediation is primarily used at the TPR stage of cases.*** Previous dependency mediation research has consistently shown that mediation can help promote a number of positive impacts if used at *earlier phases* in a case. Because of the benefits of earlier mediation for “front-loading” the case process (e.g., improved compliance with case plans and improved timeliness of critical court events such as adjudication, disposition, and, ultimately timely permanency), all courts participating in the statewide program should consider the possible benefits and feasibility of mediation at earlier stages. The 8th JD (Clark County), in particular, should consider expanding the use of mediation to the initial stages of cases as that county primarily uses mediation at the TPR stage of a case. While mediation presents a number of benefits in TPR matters, new dependency filings in the 8th JD (Clark County) appear to have increased between FY2012 and 2016. As a result, the 8th JD would benefit from expanding mediation beyond TPR matters to include mediation at all stages of cases as needed.
7. ***Examine, in more detail, the reasons for any mediation no shows.*** Program administration should more fully explore the reasons why parents, as well as other mediation participants and stakeholders, fail to appear for mediations. This can be done via follow-up with caseworkers and/or parents’ attorneys when there is a no-show to identify the reasons for the non-appearance. Determining the causes for a non-appearance may suggest specific ways the program can improve attendance. Determining the barriers for participation can help the program design procedures (or enhance existing ones) to facilitate those parents’ mediation participation.
8. ***Examine program implementation of, and adherence to, the existing protocol for mediation when domestic violence is an issue in a case.*** While a protocol for mediation in domestic violence cases exists, it is important to determine whether or not improvements to the protocol are needed to ensure it applies appropriately to the JDMP

process and also whether the protocol is consistently applied. Program administration should not only consider conducting additional training on the features of the protocol and how to implement it in cases, but should also gather information about what the current barriers are to fully implement the protocol. Furthermore, mediators should routinely and clearly document the specific things they are doing to follow the protocol. For example, mediators could be asked to complete a “checklist” that details how the mediation protocol has been adhered to in each relevant case. Future evaluations of the statewide mediation program can also be designed to determine the extent to which the domestic violence protocol has been followed.

9. ***Enhance mediator training to include additional strategies for effectively listening to participants and stakeholders and making them feel heard.*** The process evaluation found that when people believed others in the mediation had “really listened” to what they had to say (or had really listened to what their client had to say), they were more likely to express satisfaction with the mediation regardless of the ultimate result (i.e., regardless of whether a full agreement, partial agreement or no agreement was reached). This finding indicates the importance of providing participants and stakeholders in the mediation process with an opportunity to voice their thoughts, opinions, etc., and is consistent with what is known about the relationship between voice and satisfaction from the growing body of national research on mediation programs. Given this robust finding, program administrators should review current mediator training to ensure that mediators are provided with strategies to effectively listen to people and make them feel heard during the mediation process.
10. ***In order to better understand the relationship between the JDMP process and outcomes (i.e., the impacts that the program has on cases), a number of additional follow-up studies are recommended, including:***
 - a. A cost-benefit analysis to determine the savings in time, workload and monetary resources that can be attributed to the JDMP.
 - b. Expand the outcome evaluation already completed in the SJDC¹⁵ to include other judicial districts in the statewide program (e.g., replicate the outcome evaluation methods used in the SJDC in additional judicial districts). Such an evaluation should not only use the same outcome measures (i.e. timeliness measures, case

¹⁵ Siegel, G.; Ganasarajah, S.; Gatowski, S.; Sickmund, M.; Devault, A, 2017. *Outcome Evaluation of the Second Judicial District Court’s Dependency Mediation Program (Washoe County, Nevada)*. Reno, NV: National Council of Juvenile and Family Court Judges

closures, hearing continuances, vacated hearings, mediation characteristics.) to facilitate cross-county comparisons, but should also examine additional relevant outcomes such as: whether mediation has an impact on case re-entries into the system (a measure of safety); whether mediated cases result in increased compliance with case plans; whether mediation decreases out of home placement moves for children; whether mediation increases placement stability for children etc.

- c. A focused process and outcome evaluation of the mediation program in the 8th JD (Clark County) as it is the most populous county in Nevada. Evaluation should replicate and enhance the process and outcome evaluation methods used in the SJDC and also be expanded to include the additional outcome measures noted above.

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Appendix A

Statewide Juvenile Dependency Mediation Program Protocol

Domestic Violence Screening Protocol

1. What are we trying to find out by screening? We are trying to determine whether a victim is safe or feels safe participating in mediation with the batterer present.

2. How should screening be done? Screening must be initiated by discussion between the mediator, district attorney, child welfare and attorneys of parties in the action. Screening should be done separately with each party so the batterer does not directly influence the answers given by the victim. If screening is done in person, appointments should be on different days to prevent stalking of the victim by the batterer. If screening is done telephonically, the parties should be asked if they are alone prior to questioning.

3. If screening reveals that a victim is in immediate or present danger. A person in danger of battering should be put in touch with the police or a domestic violence shelter. It is helpful to follow up and see if they are safe. A mediator should not be neutral about safety.

4. Where there is a history of domestic violence the process may be modified to provide a safe environment for the victim. Consider the following strategies.

1. The victim should arrive 10 minutes after the abuser and leave 10 minutes earlier than the abuser.
2. Seat the victim closer to the door.
3. Setting additional ground rules for the mediation and conversation between the couple to reduce fear and intimidation. Discuss concerns of parties prior to mediation in development of ground rules (e.g. “what ground rules will make you feel safe?”)
4. Allow for an advocate to come to the mediation with the victim or to wait in the waiting room for the victim.
5. Require a court bailiff to be present, if possible.
6. Utilize caucus as a safety valve.
7. Talk to the victim during breaks or between sessions to assess the level of fear.

STRUCTURE FOR SCREENING INTERVIEW OF PARTIES IF NEEDED

- The person conducting screening must be trained in domestic violence.
- Screening must be undertaken before joint sessions are held.
- Screening of each party must be conducted separately, preferably in person. When scheduling a screening in person inquire whether a party has any safety concerns about coming to the screening location. Arrangements should be made to respond to the safety concerns of the parties.

GUIDELINES FOR THE SCREENING INTERVIEW

- Observe each party's behavior during the interview.
- Preface screening with reassurance to reduce awkwardness.
- A policy of confidentiality consistent with applicable statutes and court rules should be explained to the parties, as well as the goals & process of mediation.
- Identify each party's ability to negotiate, practices of abuse, coercion and threats by a party. Give victim the opportunity to express concerns about participating in the mediation jointly.
- Participants should be assured that participation in the screening process fulfills the requirement for court ordered mediation.

Do not make judgments about allegations of abuse. The mediator's role is to determine whether the case is appropriate for mediation with both parties present or at different times, or if the case is appropriate for mediation.

Appendix B
Dependency Mediation Training Agenda
Nevada Supreme Court
Court Improvement Program
40 Hour Dependency Mediation Training
March 7-11, 2016

Day One: 8:00 – 5:00

8:00-8:30 **WELCOME AND INTRODUCTIONS**

- CIP, myself, any other
- Ice Breaker

8:30-9:00 Training Goals

- Training Style
- Expectations

9:00-10:00 **CONFLICT THEORY**

- What is Conflict (exercise: conflict words)
- Types of Conflict
- How I respond to conflict (exercise: handout)
- Approaches to conflict

10:00-10:15 **15 MINUTE BREAK**

10:15-11:15 **NEGOTIATION THEORY**

11:15-12:00 **MEDIATION IN ACTION**

12:00-1:00 **ONE HOUR LUNCH (lunch provided)**

1:00-2:00 **MEDIATION THEORY AND PRACTICE**

	<ul style="list-style-type: none"> • What is mediation? • Difference between mediation and arbitration • Characteristics/principles of mediation <ul style="list-style-type: none"> ○ Benefits, disadvantages and case types ○ Role and characteristics of mediators ○ Core concepts of mediation
2:00-2:30	MEDIATION PROCESS AND TECHNIQUES
	<ul style="list-style-type: none"> • Snapshot • Dependency Mediation Forms
2:30-2:45	15 MINUTE BREAK
2:00-4:50	MEDIATION PROCESS AND TECHNIQUES, STAGE I
	<ul style="list-style-type: none"> • Preliminary Arrangements <ul style="list-style-type: none"> ○ Mediator Preparation ○ Mediation environment (video – Game of Thrones)
	MEDIATION PROCESS AND TECHNIQUES, STAGE II
	<ul style="list-style-type: none"> • Introduction <ul style="list-style-type: none"> ○ Greetings & welcome • Orientation of parties (exercise) <ul style="list-style-type: none"> ▪ Confidentiality • Mediator remarks
	MEDIATION PROCESS AND TECHNIQUES, STAGE III
	<ul style="list-style-type: none"> • Party openings <ul style="list-style-type: none"> ○ Listening techniques (exercises)
4:50-5:00	SUMMARY/FEEDBACK
5:00	ADJOURN

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Day Two: 8:00 – 5:00

8:00-8:15 **QUICK REVIEW/QUESTIONS**

8:15-9:25 **MEDIATION PROCESS AND TECHNIQUES, STAGE III, CONT'D**

- Summarizing

MEDIATION PROCESS AND TECHNIQUES STAGE IV

- Agenda setting
 - Structuring for progress: joint problem solving statement
 - Who sets the agenda?

MEDIATION PROCESS AND TECHNIQUES STAGE V

- Exchanging, gathering and clarifying information
 - Open ended questions (exercises)
 - Summarization (exercise)

9:25-9:30 **HOW TO ROLE PLAY/COACHING**

9:30-10:30 **ROLE PLAY #1**

10:30-10:45 **15 MINUTE BREAK**

10:45-11:15 **ROLE PLAY DEBRIEF**

11:15-12:00 **MEDIATION PROCESS AND TECHNIQUES, STAGE V CONT'D**

- Clarifying Information and Managing Intensity
 - Acknowledging
 - Reframing

12:00-1:00 **ONE HOUR LUNCH (lunch provided)**

1:00-2:30 **MEDIATION PROCESS AND TECHNIQUES, STAGE V CONT'D**

- Clarifying Information and Managing Intensity, Cont'd
 - Hierarchy of communication strategies
 - Emotional Intelligence
- Focusing on issues, interests and positions
 - Outlining issues
 - Interests vs. positions (exercise)
 - Examples and strategies for exploring interests

2:30-2:45	15 MINUTE BREAK
2:45-4:50	ROLE PLAY #2 AND DEBRIEF
4:50-5:00	SUMMARY/FEEDBACK
5:00	ADJOURN

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Day THREE: 8:00 – 5:00

8:00-8:15	QUICK REVIEW/QUESTIONS
8:15-10:15	MEDIATION PROCESS AND TECHNIQUES, STAGE VI <ul style="list-style-type: none"> • Option Generation <ul style="list-style-type: none"> ○ Brainstorming options (exercise) ○ Option selection techniques
10:15-10:30	15 MINUTE BREAK
10:30-11:30	MEDIATION PROCESS AND TECHNIQUES, STAGE VII <ul style="list-style-type: none"> • Reality testing <ul style="list-style-type: none"> ○ Evaluation strategies (exercise) ○ Range of possible outcomes MEDIATION PROCESS AND TECHNIQUES, STAGE VIII <ul style="list-style-type: none"> • Drafting agreements
11:30-12:00	CAUCUS: A SEPARATE MEETING
12:00-1:00	ONE HOUR LUNCH (lunch provided)
1:00-2:30	ISSUES SPECIFIC TO DEPENDENCY MEDIATION <ul style="list-style-type: none"> • Parties <ul style="list-style-type: none"> ○ Whom to expect/unexpected • Bias & Cultural Considerations • Tips for mediating large groups

2:30-2:45	15 MINUTE BREAK
2:45-4:50	ROLE PLAY #3 & DEBRIEF
4:50-5:00	SUMMARY/FEEDBACK
5:00	ADJOURN

**Nevada Supreme Court
Court Improvement Program
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Day FOUR: 8:00 – 5:00

8:00-8:15	QUICK REVIEW/QUESTIONS
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8:15-10:15	STAGE IX: CLOSURE
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- Next steps
- Paperwork

STAGE X: EVALUATION

- Evaluating Session/Debriefing (exercise)
- Acceptance; De-stressing

FINDING YOUR MEDIATION STYLE

10:15-10:30	15 MINUTE BREAK
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10:30-12:00	SPECIAL ISSUES IN DEPENDENCY MEDIATION
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- Attorneys
- Impasse
- Power imbalance
- High conflict
 - Neuroscience: conflict and the brain
- Domestic Violence

12:00-1:00	ONE HOUR LUNCH (lunch provided)
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1:00-3:30	ROLE PLAY #4
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3:30-3:45	15 MINUTE BREAK
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3:45-4:50	MEDIATION ETHICS
4:50-5:00	SUMMARY/FEEDBACK
5:00	ADJOURN

**Nevada Supreme Court
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Day FIVE: 8:00 – 5:00

8:00-8:15	QUICK REVIEW/QUESTIONS
8:15-10:15	OVERVIEW OF DEPENDENCY LAW <ul style="list-style-type: none">• Washoe County District Attorney's Office
10:15-11:30	DEPENDENCY MEDIATION PANEL
11:30-12:00	CIC, CIP, STRUCTURING A MEDIATION PROGRAM <ul style="list-style-type: none">• Kathie Malzahn-Bass
12:00-1:00	ONE HOUR LUNCH (lunch provided)
1:00-3:30	ROLE PLAY #5
3:30-3:45	15 MINUTE BREAK
3:45-4:15	ROLE PLAY DEBRIEF
4:15-5:00	WRAP UP <ul style="list-style-type: none">• Unanswered questions• Take aways• Professional Organizations and Resources• Course Evaluations• Certificates
5:00	ADJOURN

Appendix C

Dependency Mediation Training Scenario Essays



Mediation Scenario Essay

In the following scenario, you are the mediator. Please describe in detail what you would do in each situation. Your answer can contain several possible courses of action.

You have been assigned a termination of parental rights case. The parties involved are: Jan Jones, mother; Carly Smith, counsel for mother; John Jones, father; Bob Harris, counsel for father; Dale Myer, Deputy District Attorney; Jean Love, Social Worker Supervisor; and Candy Cando, Children's counsel

According to the latest court report, the children were initially removed for neglect by both parents and because of ongoing domestic violence between the parents. Father briefly went to jail but is now out. Parents have done very little work on their case plans, which included obtaining mental health assessments, attending classes on parenting and anger management and providing a stable home environment. Mother and father are living together and have attended visits with their children sporadically. The children are placed in mother's aunt's home. The report notes family members who are interested in possibly adopting the children, including father's mother.

Describe the steps you would take to prepare for the mediation, including information you would need to obtain and strategies for the session itself.

In the following scenarios, you are the mediator. Please describe in detail what you would do in each situation. Your answer can contain several possible courses of action.

Scenario #1

You are mediating a Petition case. The parties have reached agreement. They agree to change the finding of neglect in the Petition to one of "failure to discharge responsibilities to the child due to poverty." This is not a finding under NRS 432B.330 and you don't think the court will accept this agreement. What do you do?

Scenario #2

You are mediating a TPR case with both parents. Father wants the children to be placed with his relatives. Mother wants the children to be placed with hers. The couple has a history of domestic violence. You do not care for the way father is speaking to mother. He is totally dismissive of her concerns, keeps interrupting her and criticizes most things she says. Mother's attorney is doing nothing to help her client. What do you do?

Appendix D

Statewide Juvenile Dependency Confidentiality Agreement¹⁶

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Juvenile Dependency Mediation

Confidentiality Statement and Agreement to Mediate

Mediation is a process where parties come together in an attempt to settle a dispute. A trained mediator assists the parties during the mediation. Free and open communication is necessary for a mediation to cover all of the concerns of the participants. Because this is of such great importance, the law considers mediation communications confidential and prohibits their disclosure (NRS 48.109). The mediator and all of the participants are not allowed to disclose to anyone else a communication made in a mediation session. Also, information from a mediation session cannot be used in the court case related to the mediation.

HOWEVER, there are certain circumstances where these protections do not apply and mediation communications may or must be disclosed. Some of the circumstances where mediation communications are not confidential are listed below.

- a. Some professionals participating in the mediation may be permitted or required by law to report specific information to certain authorities, such as:
 1. Information that would support **new allegations of child abuse or neglect**
 2. Information about **elder abuse and/or dependent adult abuse**
 3. A mediation participant's **threat to harm him/herself or someone else**
- b. Any written settlement agreement
- c. There may also be other circumstances where information from the mediation may not be confidential (including but not limited to, if a **criminal case is pending or filed at a later date**)

If you have any questions about confidentiality and the limits of confidentiality, please consult with your attorney privately before discussing any topic at the mediation.

- While parties may have been ordered to participate in mediation and make an effort to resolve certain issues, entering into any agreement is strictly voluntary.
- The only report the mediator will make to the court is one that states who attended the scheduled mediation appointment, whether an agreement was reached, and if so, the terms of the agreement, and whether an additional mediation appointment has been scheduled. The mediator will not make any recommendations to the court as to how the case should be decided.
- The mediator cannot be used as a witness in civil court or other non-criminal legal proceedings (NRS 48.109). Written documents prepared for mediation, during mediation, or as a direct result of mediation, cannot be used as evidence in civil court or other non-criminal legal proceedings.
- The attorneys for the parties have an opportunity to review any written agreement that is reached before it is presented to the court. Once signed by all parties, written settlement agreements will be tendered to the court for review/approval and become part of the court file.
- Non-identifying information about this mediation may be made available for program evaluation.

¹⁶ The example provided here is from the SDJC (which is part of the statewide juvenile dependency mediation program).

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Juvenile Dependency Mediation

Confidentiality Statement and Agreement to Mediate

This agreement binds all mediation participants, including but not limited to, social workers, district attorneys, parents' attorneys, minor's counsel, CASA, therapists, parents and any other persons present at the mediation.

By signing below, I agree that I have read and understand the above and that the mediator has verbally explained this document to me. I further agree to participate in the mediation and keep confidential all communications from the mediation unless I am permitted or required by law to disclose specific information.

Case Number

Child(ren)'s Name(s) & Date(s) of Birth

Mother (Date) Mother's Attorney (Date)

Father (Date) Father's Attorney (Date)

Social Worker (Date) Social Worker (Date)

Social Worker, Permanency Worker (Date) Social Worker, Coordinator (Date)

Social Worker, Supervisor (Date) Agency's Attorney (Date)

CASA (Date) Child (Date)

Other, Relationship to Child/Case (Date) Other, Relationship to Child/Case (Date)

Appendix E

Statewide Juvenile Dependency Participant Survey



Statewide Juvenile Dependency Mediation Program PARTICIPANT SURVEY

You recently participated in juvenile dependency mediation. We are interested in your experience of the juvenile dependency mediation service and any suggestions you may have. Your comments are important to us and will help improve our services.

Was this co-mediated? ☐ Yes ☐ No

1.) Today's Date: ____ / ____ / ____

- 2.) What is your relationship to the child?
- ☐ Mother
 - ☐ Father
 - ☐ Child (Age: _____)
 - ☐ Other Family Member _____
 - ☐ Foster Parent _____
 - ☐ Other _____

- 3.) The mediator explained the mediation process clearly so I knew what to expect.
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 4.) Did you have a chance to voice your opinions?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 5.) Was an agreement reached?
- ☐ Yes, on all issues
 - ☐ Yes, on some issues
 - ☐ No

If no, why do you think an agreement could not be reached?

If yes, do you think that the mediation agreement will work?

- 6.) Do you think the other people in mediation really listened to what you had to say?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 7.) Did you feel ignored or unimportant during the mediation?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 8.) Were you treated with respect?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 9.) Were you able to be a part of finding answers to the problems discussed?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

- 10.) Did the mediator treat everyone fairly?
- ☐ Yes, Strongly Agree
 - ☐ Yes, Agree
 - ☐ No, Disagree
 - ☐ No, Strongly Disagree

11.) What did you find most helpful?

12.) What did you find least helpful?

13.) Other comments or suggestions:

08/15/16

Thank you for taking the time to share your thoughts

Appendix F

Statewide Juvenile Dependency Stakeholder Survey



Statewide Juvenile Dependency Mediation Program STAKEHOLDER SURVEY

You recently participated in juvenile dependency mediation on behalf of your client or agency. We are interested in your experience of the juvenile dependency mediation service and any suggestions you may have. Your comments are important to us and will help improve our services.

Was this co-mediated? ☐ Yes ☐ No

1.) Today's Date: ____ / ____ / ____

2.) What is your role in this case?

- ☐ Mother's Attorney
- ☐ Father's Attorney
- ☐ Child's Attorney
- ☐ District Attorney/Attorney General
- ☐ Social Worker
- ☐ CASA
- ☐ Other _____

3.) What legal action is pending in this case?

- ☐ Adjudicatory/Evidentiary Hearing
- ☐ Disposition Hearing
- ☐ 6 Month Review Hearing
- ☐ 12 Month Review Hearing
- ☐ Permanency Planning Hearing
- ☐ Termination of Parental Rights
- ☐ Other _____

4.) Did your session result in an agreement?

- ☐ Yes, All Issues
- ☐ Yes, Some Issues
- ☐ No

If no, why do you think an agreement could not be reached?

If yes, how does the mediated agreement compare w/ court orders?

5.) Did you (or your client) have a chance to voice your opinions?

- ☐ Yes, Strongly Agree
- ☐ Yes, Agree
- ☐ No, Disagree
- ☐ No, Strongly Disagree

6.) Do you think the other people in mediation really listened to what you (or your client) had to say?

- ☐ Yes, Strongly Agree
- ☐ Yes, Agree
- ☐ No, Disagree
- ☐ No, Strongly Disagree

7.) Were you treated with respect?

- ☐ Yes, Strongly Agree
- ☐ Yes, Agree
- ☐ No, Disagree
- ☐ No, Strongly Disagree

8.) Was your mediation session conducted fairly?

- ☐ Yes, Strongly Agree
- ☐ Yes, Agree
- ☐ No, Disagree
- ☐ No, Strongly Disagree

9.) What did you find most helpful about the mediation session?

10.) What did you find least helpful?

11.) Other comments or suggestions:

09/13/16

Thank you for taking the time to share your thoughts

Appendix G

Statewide Case Data Sheet

Mediator's Name: _____ APPOINTMENT DATE: _____

Case Preparation Time: _____ APPOINTMENT TIME: _____



Statewide Juvenile Dependency Mediation Program Case Data

Unity Number _____ Judicial District _____ Case Number _____ Dept. # _____

Previous Mediation? ___ Yes ___ No

Children's Name(s) & Date(s) of Birth _____

Race/Ethnicity: _____ Gender Identity: _____

Children's Name(s) & Date(s) of Birth _____

Race/Ethnicity: _____ Gender Identity: _____

Siblings? ___ Yes ___ No

How many are a Party to this case? _____ How many are Not? _____

Mediation: ___ Ordered by Court ___ Requested by party _____ Other _____

FOCUS OF MEDIATION:

___ Jurisdiction	___ petition language	___ services for children & parents
___ visitation	___ placement	___ education issues
___ reunification plans	___ permanency plans	___ dismissal orders
___ TPR	___ post-adoption contact	___ post-guardianship contact
___ other _____		

SPECIAL INSTRUCTIONS: _____

Next Court Date: _____

Mediator's Use Only

START TIME: _____ **END TIME:** _____

Did the mediation result in the Court vacating a hearing? ___ Yes ___ No

If yes, which hearing? _____

Settlement Conference _____ Trial/Evidentiary Hearing # of days _____

Appendix H

Process Evaluation Research Questions

Participant

- a. Is there a difference between relationship types (mother, father, child, etc.) in:
Whether they felt the mediator explained the mediation process clearly?
 - b. Whether they had a chance to voice their opinions?
 - c. Whether they think other people in mediation really listened to what they had to say?
 - d. Whether they felt ignored or unimportant during mediation?
 - e. Whether they were treated with respect?
 - f. Whether they were able to be a part of finding answers to the problems discussed?
 - g. Whether the mediator treated everyone fairly?
2. Is there a difference between agreement type (full agreement, partial agreement, no agreement) in:
 - a. Whether they felt the mediator explained the mediation process clearly?
 - b. Whether they had a chance to voice their opinions?
 - c. Whether they think other people in mediation really listened to what they had to say?
 - d. Whether they felt ignored or unimportant during mediation?
 - e. Whether they were treated with respect?
 - f. Whether they were able to be a part of finding answers to the problems discussed?
 - g. Whether the mediator treated everyone fairly?
3. Is there a relationship between relationship types (mother, father, child, etc.) and whether an agreement was reached?
4. Is there an association between the questions asked?
 - a. The mediator explained the mediation process clearly so I knew what to expect.
 - b. Did you have a chance to voice your opinions?
 - c. Do you think the other people in mediation really listened to what you had to say?
 - d. Did you feel ignored or unimportant during the mediation?
 - e. Were you treated with respect?
 - f. Were you able to be a part of finding answers to the problems discussed?
 - g. Did the mediator treat everyone fairly?

Stakeholder

5. Is there a difference between role (deputy district attorney, mother's attorney, father's attorney, social worker, social worker supervisor, CASA, etc.) in:
 - a. Whether they or their client had a chance to voice their opinions?
 - b. Whether they think the other people in mediation really listened to what they or their client had to say?
 - c. Whether they were treated with respect?
 - d. Whether their mediation session was conducted fairly?

6. Is there a relationship between stakeholder role (deputy district attorney, mother's attorney, father's attorney, social worker, social worker supervisor, CASA, etc.) and whether an agreement was reached?
7. Is there a difference between agreement type (full agreement, partial agreement, no agreement) in:
 - a. Whether they or their client had a chance to voice their opinions?
 - b. Whether they think the other people in mediation really listened to what they or their client had to say?
 - c. Whether they were treated with respect?
 - d. Whether their mediation session was conducted fairly?
8. Is there a difference between the legal action pending in the case in:
 - a. Whether they or their client had a chance to voice their opinions?
 - b. Whether they think the other people in mediation really listened to what they or their client had to say?
 - c. Whether they were treated with respect?
 - d. Whether their mediation session was conducted fairly?
9. Is there an association between the questions asked?
 - a. Did you (or your client) have a chance to voice your opinions?
 - b. Do you think the other people in mediation really listened to what you (or your client) had to say?
 - c. Were you treated with respect?
 - d. Was your mediation session conducted fairly?

Appendix I—Results and Statistical Analyses

Participant

1. Is there a difference between relationship types (mother, father, child, etc.) in:
 - a. Whether they felt the mediator explained the mediation process clearly?
 - i. There was not a significant difference between groups for whether the individual felt that people in the mediation really listened to what they had to say, $F(4, 110) = .05, p = 1.00$.
 - b. Whether they had a chance to voice their opinions?
 - i. There was not a significant difference between groups for whether the individual felt they had a chance to voice their opinions, $F(4, 110) = .71, p = .59$.
 - c. Whether they think other people in mediation really listened to what they had to say?
 - i. There was a significant difference between groups for whether the individual thought that other people in mediation really listened to what they had to say, $F(4, 111) = 3.74, p = .01$. A Tukey post hoc test revealed that foster parents felt that they were listened to more so than mothers.
 - d. Whether they felt ignored or unimportant during mediation?
 - i. There was not a significant difference between groups for whether the individual felt ignored or unimportant during the mediation, $F(4, 111) = 2.12, p = .08$.
 - e. Whether they were treated with respect?
 - i. There was not a significant difference between groups for whether the individual thought they were treated with respect, $F(4, 111) = 1.95, p = .11$.
 - f. Whether they were able to be a part of finding answers to the problems discussed?
 - i. There was not a significant difference between groups for whether the individual felt they were able to be a part of finding answers to the problems discussed, $F(4, 105) = 1.61, p = .18$.
 - g. Whether the mediator treated everyone fairly?
 - i. There was not a significant difference between groups for whether the individual thought the mediator treated everyone fairly, $F(4, 110) = .75, p = .56$.
2. Is there a difference between agreement (full agreement, partial agreement, no agreement) in:
 - a. Whether they felt the mediator explained the mediation process clearly?
 - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt that the mediator explained the process clearly, $F(2, 110) = 7.10, p < .01$. A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ($p < .01$) as well as partial agreement and no agreement ($p = .01$) for whether mediation was clearly explained – those who reach full agreement felt that mediation was explained clearly more than those who reached partial agreement and those that reached no

- agreement felt that mediation was explained clearly more than those who reached partial agreement.
- b. Whether they had a chance to voice their opinions?
 - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt that they had a chance to voice their opinions, $F(2, 110) = 5.67, p < .01$. A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ($p = .02$) as well as full agreement and no agreement ($p = .02$) for whether they felt they had a chance to voice their opinions – those who reached full agreement felt that they had a chance to voice their opinions more than those who reached partial agreement or no agreement.
 - c. Whether they think other people in mediation really listened to what they had to say?
 - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt other people in mediation really listened to what they had to say, $F(2, 111) = 4.59, p = .01$. A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ($p = .04$) as well as full agreement and no agreement ($p = .04$) for whether they felt that other people in mediation really listened to what they had to say – those who reached full agreement felt that other people in mediation really listened to what they had to say more than those who reached partial agreement or no agreement.
 - d. Whether they felt ignored or unimportant during mediation?
 - i. The results indicated that there was not a statistically significant difference between agreement types for whether the individual felt ignored or unimportant during mediation, $F(2, 111) = 1.32, p > .05$.
 - e. Whether they were treated with respect?
 - i. The results indicated that there was not a statistically significant difference between agreement types for whether the individual felt that they were treated with respect, $F(2, 111) = 1.20, p > .05$.
 - f. Whether they were able to be a part of finding answers to the problems discussed?
 - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt that they were able to be a part of finding answers to the problems discussed, $F(2, 105) = 11.62, p < .01$. A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ($p < .01$) as well as full agreement and no agreement ($p < .01$) for whether they felt that they were able to be a part of finding answers to the problems discussed – those who reached full agreement felt that they were able to be a part of finding answers to the problems discussed more than those who reached partial agreement or no agreement.
 - g. Whether the mediator treated everyone fairly?
 - i. The results indicated that there was not a statistically significant difference between agreement types for whether the individual that the mediator treated everyone fairly, $F(2, 110) = 1.13, p > .05$.

3. Is there a relationship between relationship types (mother, father, child, etc.) and whether an agreement was reached?
 - a. The assumptions for a chi-square were assessed and satisfied. The results indicated that overall, there was a statistically significant association between relationship type and agreement, $\chi(8) = 19.57, p = .01$. A post hoc test revealed that there was a larger than expected number of “other” relationship types who thought that agreement was reached on all issues ($p = .01$).
4. Is there an association between the questions asked?
 - a. All satisfaction questions were correlated with one another ($p \leq .05$).

Stakeholder

5. Is there a difference between stakeholder role (deputy district attorney, mother’s attorney, father’s attorney, social worker, social worker supervisor, CASA, etc.) in:
 - a. Whether they or their client had a chance to voice their opinions?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they had a chance to voice their opinions ($p > .05$).
 - b. Whether they think the other people in mediation really listened to what they or their client had to say?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they were really listened to ($p > .05$).
 - c. Whether they were treated with respect?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they were treated with respect ($p > .05$).
 - d. Whether their mediation session was conducted fairly?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt the mediation session was conducted fairly ($p > .05$).
6. Is there a relationship between stakeholder role (deputy district attorney, mother’s attorney, father’s attorney, social worker, social worker supervisor, CASA, etc.) and whether an agreement was reached?
 - a. The assumptions for a chi-square were assessed and satisfied. The results indicated that overall, there was not a statistically significant association between relationship type and agreement, $\chi(14) = 10.20, p > .05$.
7. Is there a difference between agreement (full agreement, partial agreement, no agreement) in:
 - h. Whether they or their client had a chance to voice their opinions?
 - i. The results indicated that there was not a statistically significant difference between agreement types for whether the individual felt they had a chance to voice their opinions, $F(2, 256) = 2.51, p > .05$.
 - i. Whether they think the other people in mediation really listened to what they or their client had to say?

- i. The results indicated that there was a statistically significant difference between roles for whether the individual felt they were really listened to, $F(2, 258) = 8.66, p < .01$. A Tukey post hoc test revealed that there was a difference between full agreement and no agreement ($p < .01$) as well as partial agreement and no agreement ($p = .02$) for whether the other people in mediation really listened to what they or their client had to say – those who reached full agreement as well as partial agreement felt that other people in mediation really listened to what they or their client had to say more than those who reached no agreement.
 - j. Whether they were treated with respect?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they were treated with respect, $F(2, 260) = 1.98, p > .05$.
 - k. Whether their mediation session was conducted fairly?
 - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt the mediation session was conducted fairly, $F(2, 258) = 1.69, p > .05$.
- 8. Is there a difference between the legal action pending in the case in:
 - a. Whether they or their client had a chance to voice their opinions?
 - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they had a chance to voice their opinions ($p > .05$).
 - b. Whether they think the other people in mediation really listened to what they or their client had to say?
 - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they were really listened to ($p > .05$).
 - c. Whether they were treated with respect?
 - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they were treated with respect ($p > .05$).
 - d. Whether their mediation session was conducted fairly?
 - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual the mediation session was conducted fairly ($p > .05$).
- 9. Is there an association between the questions asked?
 - l. All of the satisfaction questions were correlated with one another ($p = .01$).

Appendix J

Annotated Bibliography

Anderson, G.R., & Whalen, P. (2004). *Permanency planning mediation pilot program: Evaluation final report*. Michigan State University, School of Social Work.

This report describes the exploratory, descriptive program evaluation of Michigan's Permanency Planning Mediation Pilot Program (PPMP). The evaluation was designed to address eight specific questions in addition to compiling lessons learned from this pioneering effort. The authors examined 171 mediation referrals and found that the PPMP program was successfully implemented using two mediators at each session, that mediation agreements were finalized in a majority of cases, that a significantly greater proportion of mediated cases reached a permanency outcome of some type (as compared to non-mediated cases), and that parents and other family members reported that they had been included in case planning and had their viewpoints considered during that process.

Bryant, C. (2010). *Child Protection Mediation in Texas: Past, Present, and Future*.

The Texas Supreme Court charged the Permanent Judicial Commission on Children, Youth & Families to identify and assess needs for courts to be more effective in achieving child-welfare outcomes. The author aimed to assist the Commission by examining the use of mediation in child protection cases in Texas. With no comparable or consistent statewide data about the use and effectiveness of mediation, the author conducted surveys in 2008 and 2009 with key participants. The survey results indicated that courts overwhelmingly affirm that mediation serves the best interest of children in child protection cases. Mediation is flexible, yielding individualized agreements that engage parents in resolving litigation about their children.

Dobbin, S.A., Gatowski, S. I., & Litchfield, M. (2001). *The Essex County child welfare mediation program: Evaluation results and recommendations*. National Council of Juvenile and Family Court Judges, Permanency Planning For Children Department.

The Essex County Child Welfare Mediation Program was developed through a collaborative relationship among the Superior Court of New Jersey, Family Division, the Association for Children of New Jersey, the New Jersey Court Improvement Project, and the Division of Youth and Family Services. The authors of this evaluation sought to

examine the nature and functions of the Essex County Child Welfare Mediation Program. The results of the evaluation indicated that the program appeared to be meeting, and in some cases surpassing its' operational and process goals. A majority of professionals believed that mediation was helpful to the family. Furthermore, the majority of participants felt that mediation helped them better understand everyone's point of view and contributed to improved communication between parties.

Gatowski, S.I., Dobbin, S.A., Litchfield, M., Oetjen, J. (2005). *Mediation in child protection cases: An evaluation of the Washington, D.C. family court child protection mediation program*. Reno, NV: National Council of Family and Juvenile Court Judges.

This study presented the results of an evaluation of case outcomes for child abuse and neglect cases in the Washington, DC, Family Court Child Protection Mediation Program. This program evaluation examined case outcomes for a group of child abuse and neglect cases that were assigned to mediation and a comparison group that were handled via the traditional hearing process and did not receive mediation. Cases in both groups were tracked for 24 months. The study found that the Mediation Program promoted timely resolution of cases consistent with ASFA mandates. It also found that the mediation process had positive effects on case processing timeframes. Mediation also seemed to facilitate more long-term permanency with lower re-entry into care rates.

Lowenstein, L.F. (2009). *Mediation with separated parents: Recent research 2002–2007*. Journal of Divorce & Remarriage, 50(4), 233-247.

This study examined the use of mediation to attempt to resolve conflicts between parents following divorce and separation. While this study was **not** about the use of mediation in child welfare cases, it did examine the effects of parental disputes on children and how mediation could help address these disputes.

Summers, A., Wood, S., and Russell, J. (2011). *Assessing efficiency and workload implications of the King County mediation pilot*. Retrieved from <http://www.ncjfcj.org/resource-library/publications/assessing-efficiency-and-workload-implications-king-county-mediation>

This initial assessment of the mediation pilot program in King County, WA examined the implementation of early stage case mediation. The program was developed to help the court improve case processing efficiency and reduce judicial workloads. Twenty-two mediated cases were compared to 28 randomly selected non-mediated cases in order to

ascertain differences in case timeliness, frequency of continuances, the number of hearings, and agreement rates. Preliminary results indicated that mediation improved the efficiency of case processing. Directions for future research on efficiency and judicial workloads were also discussed.

Summers, A., Padilla, J., Wood, S., McClellan, J., and Russell, J. (2011). *National Council of Juvenile and Family Court Judges Permanency Planning for Children research report: King County mediation program assessment phase II*. Retrieved from <http://www.ncjfcj.org/resource-library/publications/king-county-mediation-program-assessment-phase-ii>

This subsequent assessment of the King County mediation program examined the impacts of early case mediation on case processing efficiency and judicial workloads. Twenty-two mediation cases were compared to 28 randomly selected non-mediated cases to ascertain differences in case timeliness, frequency of continuances, the number of hearings, and agreement rates. Results reconfirmed that mediation improved the efficiency of case processing.

Summers, A., Wood, S. M., and Bohannon, T. L. (2013). *Juvenile law programs research report: King County mediation program assessment phase III*.

The third study in King County reviewed longer-term outcomes of mediated cases versus non-mediated cases and explored satisfaction with the mediation process. It included surveys that were given to parents and stakeholders to ascertain their perceptions of the mediation process. In addition, updated outcome analyses were conducted to compare mediated to non-mediated cases. The results indicated that the Mediation Program in King County, WA, achieved a number of dependency system improvements. The study also demonstrated that mediation improved timeliness, eased workload demands, offered more services to mothers, were more likely to produce agreements that resolved previously contested issues, reduced the likelihood of children being placed in foster care, offered parents a place to be heard, and resulted in higher rates of parent/child reunification. Parents and system stakeholders were satisfied with mediation and the majority of mediated cases ended in either partial or full agreement.

Thoennes, N. (1997). *An evaluation of child protection mediation in five California courts*. Family Court Review, 35(2), 184-195.

This article presented the results of an evaluation of five California counties utilizing court-based mediation services to process child maltreatment cases filed with the court. The programs targeted cases at different stages of case processing and employed a variety of service delivery approaches. The results indicated that mediation is an effective method for resolving contested cases and may offer a number of benefits over the formal adjudication process, including more detailed treatment plans and fewer contested court hearings.

Thoennes, N. (1999). *Dependency mediation in Colorado's fourth judicial district*. Denver, CO: Center for Policy Research. NOTE: This study was also published in 2000 in the Juvenile and Family Court Journal, 51(2), 13-22, under the title of Dependency mediation: Help for families and courts.

This study presented findings from an evaluation of a mediation program that has been operating since 1995. The study included interviews with professionals involved in mediation, case data from the mediation program, and case data for a similar comparison group that did not receive mediation. The results indicated that all contested issues were resolved in approximately 70% of the cases sent to mediation, that mediation provided important cost avoidance, and that mediation reduced time delays.

Thoennes, N. (2009). *What we know now: Findings from dependency mediation research*. Family Court Review, 47(1), 21-37. doi: 10. 1111/j. 1744-1617. 2009. 00237. x

This study explored what had been learned to date about court-based dependency mediation through research and what new and persisting questions remain. It reviewed previous empirical studies of child protection mediation. The topics included what has been learned about the organization and structure of mediation programs, what has been learned about settlement in mediation, and whether there are benefits to mediation beyond the mere fact that settlements are reached.

Trosch, J. L., A, Sanders, L. T., & Kugelmass, S. (2002). *Child abuse, neglect, and dependency mediation pilot project*. *Juvenile and Family Court Journal*, 53(4), 67-77.

This study detailed the experiences of the Family Court of Mecklenburg County (Charlotte, NC) to make dependency mediation a reality and to address the fact that, in 1999, more than half of the children in the protective custody of the Department of Social Services had been in custody for 12 months or more. The Child Abuse, Neglect, and Dependency Mediation Pilot Project was one of the approaches selected by the Family Court to help achieve the ASFA goal of one year to permanency.

The following is a list of other research articles relating to mediation that were identified but that were not readily available for review.

Thoennes, N. (1998). *Dependency mediation in the San Francisco courts*. Center for Policy Research.

Tyler, T. R. (1990). *Why people obey the law*. New Haven, CT: Yale University Press. 2s)