



IMPROVING AN EFFECTIVE PROGRAM

— A Comprehensive Evaluation of the
Superior Court of the District of Columbia
Child Protection Mediation Program



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IMPROVING AN EFFECTIVE PROGRAM:

A Comprehensive Evaluation of the Superior Court of the District of Columbia Child Protection Mediation Program

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INTRODUCTION

This study is the result of the Superior Court of the District of Columbia’s interest in conducting a comprehensive evaluation of its Child Protection Mediation Program. The program, which mandates early mediation, was put in place as a pilot in 1998 and had last been evaluated in 2005. The Court’s Abuse and Neglect Subcommittee¹ had a number of questions it wanted the evaluation to answer. With input from the evaluator, these questions were expanded. The final evaluation questions were:

- How many cases are being referred and mediated?
- What are the reasons that cases aren’t being mediated?
- What effect does mediation have on:
 - Whether parents eventually agree to stipulate to the facts of the case,
 - Whether parents comply with services,
 - The time it takes for a child taken into care to have a permanent, and
 - The number of court hearings?
- Does timing of the mediation have an effect on whether the parties leave mediation with an agreement?
- What other benefits is mediation providing? Is it achieving the court’s goals for the program?
- How well is the mediation program serving the needs of parents and professionals² who participate? Are there any issues that need to be addressed?
- How well is the mediation process working? Are there any issues that need to be addressed?

SUMMARY

The mediation program is effectively achieving its goals, and parents who participate leave feeling good about their experience and the people involved in their case. Almost all parents leave mediation with a greater understanding of the points of view of the others at the mediation, as well as what they need to do next. Most also leave trusting that those involved in their case want to do what is best for their children. Mediation is also helping professionals. The vast majority of professionals leave mediation with a better understanding of the points of view of the others at the table and of the parents’ situations. Almost everyone, parents and professionals alike, feels they are being heard and are being treated fairly

¹ This Subcommittee is made up of representatives of each of the following: The Office of the Attorney General, Child and Family Services Agency, Children’s Law Clinic, Counsel for Child Abuse and Neglect, Court Improvement Program and the Strategic Management Division of the DC Courts, and the Abuse and Neglect bench.

² The term “professionals” will be used throughout this report to talk about the attorneys and social workers as a group. This is done for ease of comprehension and is not intended to create a value distinction between the parents and those employed to work on their case. Mediators are not included in this definition because their role is completely different in the program, and they are best discussed separately from the other professionals.

and with respect. Participation in mediation also has a significant effect on stipulation,³ with mediating parents being twice as likely to stipulate at some point before trial than those who don't mediate. Further, parents who mediate are likely to be more compliant with services than those who don't.

Procedurally, professionals praise the program and see mediation as providing multiple benefits. However, they also see it as a burden. This is primarily due to the amount of time it takes and their sense that time in mediation could be more effectively used. They complain of the long wait time, which is caused primarily by participants arriving late. Although professionals are more often late than parents, they perceive the problem to be caused primarily by the parents. This could be due to their needing to wait for parents who, in the end, don't show up. When the number of parents not showing up is added to the number of parents arriving late, the professionals are waiting for parents for 35% of the scheduled mediations, far more than the 25% for which they waited for other professionals.

The professionals also have a hard time completing the pre-mediation reports that are required for mediation, reports that they and mediators believe effective and efficient mediation requires. Additionally, mediation could be more effective and efficient if all those involved in mediation, including mediators, have more opportunities to learn about how best to conduct and participate in mediation.

MEDIATION

In the District of Columbia's child protection pre-trial mediation program, mediation is mandatory – all cases, with very few exceptions, are referred to mediation. According to court rule,⁴ mediation is supposed to occur within 30 days of the initial hearing, at which the court decides whether there is sufficient reason for the government to take the child into shelter care. The mediations are conducted by staff and contract mediators at the Superior Court's Multi-Door Dispute Resolution Division in a building separate from the courthouse. Professionals who attend the mediation are attorneys for the parents, Assistant Attorneys General, guardians ad litem and social workers. The children's natural mothers and fathers attend, as well. Children do not attend, but older children may be interviewed prior to the mediation. These mediations are very complex. They involve the usual child protection issues, such as the provision of services, visitation schedules, and the relationship between parents and social workers. But, they can also involve issues that arise in family mediations, such as contentious relationships between mothers and fathers, and legal issues surrounding the parents' agreement to stipulate to the facts of the case.

The stated goals of the program are:

- Protect and empower children
- Facilitate the development of early, appropriate and comprehensive case plans that serve to protect the safety and best interests of the child
- Facilitate a full exchange of the most current case information and encourage accountability of family members and professionals interacting with the family
- Provide an expeditious and efficient court process, which resolves court cases quickly, reduces the number of contested matters and reduces in-court time

³ A stipulation is an agreement between the parents and the government as to the facts of the case. By signing a stipulation, the parent agrees that it could be proven at court that their child fit the definition of abused or neglected, and therefore waives their right to a trial.

⁴ Administrative Order 02-12

- Increase participants' satisfaction with the court process and outcomes
- Reduce the amount of time that children spend in the foster care system waiting for permanency

Discussions with judges, program staff and professionals outlined a clear set of goals they have for mediation. Each group described similar goals and ones that are similar to those promoted by the court, although the emphasis on particular goals differed. The goals are to:

- Make progress on the legal issues in the case and reach agreement on the stipulation
- Help parents to understand their situation and their responsibilities going forward
- Increase professionals' understanding of the case, the parents and the family's situation
- Enhance communication among the professionals
- Provide parents with an opportunity to talk about their concerns and be heard

An additional goal stated by some professionals is to ensure accountability of professionals in completing tasks necessary to ensure that the parents and children receive the services they need. An unstated, but implicit, goal for some is to defuse the parents' emotions so that they can more effectively engage in the process.

The court and professionals agree that mediation at this stage of the case brings all those involved in the case together at an opportune time to discuss the issues involved and progress that should be made at a time when they normally would not be focused on the case. This allows them to exchange more information, update services and visitation, and ensure that professionals are being held accountable for their tasks. Additionally, mediation is seen as a unique forum for parents to be important in the process and to speak about their concerns and be heard. When mediation is conducted early in the case, the exchange of information and parents' input help professionals make better decisions. Mediators assist in this process by facilitating the discussion, clarifying and summarizing the points being made, reframing position statements in a more positive way, and, at times, supporting the professionals' goals for the parents.

THE STUDY

After getting an understanding of the court's goals for the evaluation, it was decided that the evaluation would examine three areas:

- Program performance – whether the program is achieving its articulated goals and whether mediation is having a broader impact on cases. This would be examined through data from the mediations and the court's case management system, as well as from participant and mediator post-mediation surveys, along with interviews of the parents and judges.
- Program process – how well the process of moving the cases from referral to post-mediation stipulation filing is working, including scheduling, pre-mediation communication, pre-mediation report submission and wait time for the mediation to begin. This would be examined through data from the mediations and the court docket, as well as through participant questionnaires, focus group discussions and interviews with judges.
- Mediation process – how well the mediation itself functions, including whether mediators follow protocol and whether and how mediator facilitation adds value to the discussion, as well as what benefits are seen for the participants. This would be examined through mediation observations, focus group discussions and parent interviews.

The evaluator worked with program and court staff to decide on what data would be collected for assessment purposes and to develop the evaluation tools needed to collect that data. At the same time, procedures were put in place that would allow tracking of responses without violating ethical standards of confidentiality for those participating in the study.

All cases filed in 2013-2014 were used as the dataset for assessing the impact of mediation on stipulation, time to permanency, hearings and compliance. All other evaluation questions were answered using data collected for cases mediated between April 1, 2017, and October 31, 2017, along with focus group discussions, observations and interviews conducted between February 2017 and April 2018.

Major Findings and Recommendations

Program performance findings

Parents who participate in mediation are twice as likely to stipulate than those who don't participate

When cases that mediated in 2013-2014 were compared to those that did not, it was found that parents who mediated were twice as likely to stipulate before trial as those who did not mediate. This held true when controlling for aspects of the case that would most likely affect a parent's decision to stipulate.

	Mediated	Not mediated
Stipulated	250	85
Did Not Stipulate	52	42

Parents who mediate may be more compliant; time to permanency is not affected by mediation

Parental compliance with services may be positively affected by mediation, although limitations to the data make it impossible to state this with certainty. Limitations to the data also made it difficult to draw conclusions about mediation's effect on time to permanency. The evidence, however, points to mediation not having an effect on the time it takes for a child to have a permanent home.

Percentage of mediations ending with a signed stipulation has declined

In 2013-2014, 44% of mediations ended with a signed stipulation. This decreased in 2017 to 25%. One likely reason for this decline is a change in the Child and Family Services Agency's (CFSA) policy in 2015 to work more intensively with families before turning to the court. According to judges and professionals, this has resulted in only the most challenging cases being petitioned. Another possible reason is a 2016 appellate court ruling that requires an evidentiary hearing when the permanency goal for a child is changed (generally from reunification to adoption or guardianship). This may have changed how parents and their attorneys approach stipulation.

% of Mediations Ending with Stipulation		
2013-2014		44%
2017		25%

Mediation is achieving its goals

Almost every mediation during the study period ended with multiple goals being achieved. Below are some of the most important goals being achieved.

- **Stipulation:** There was progress toward stipulation or agreement to its terms in about half of the mediations.
- **Understanding:** Both parents and professionals are gaining understanding through mediation. Almost all parents said they better understood the points of view of the others at the mediation,

as well as what they had to do next. The vast majority of professionals believed that they gained understanding of others' points of view and the parents' situations.

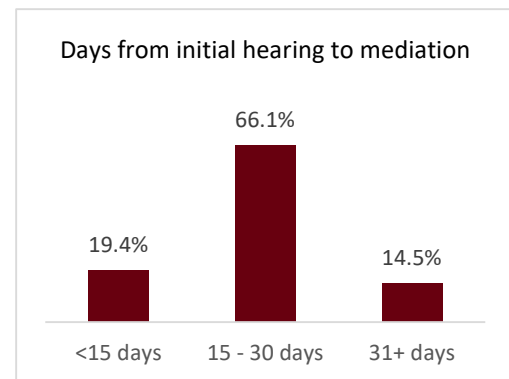
- **Trust:** Almost three quarters of parents trusted that those involved in their case wanted to do what was best for their children.
- **Experience:** More than three quarters of the parents were satisfied with the mediation and 83% believed it was helpful to them.
- **Procedural Justice:** Both parents and professionals believed they had an opportunity to talk about what was most important to them and that they were understood. Most parents believed the mediator and professionals treated them fairly and with respect. All professionals believed that the mediator treated them fairly and with respect.

Recommendation: Because of the many benefits of mediation, mediation should remain mandatory.

Program process findings and recommendations

About 1/3 of mediations are scheduled too early or after the 30-day deadline

During the 2017 study period, 19% of mediations were scheduled within two weeks of the initial hearing, and 15% were scheduled after the 30-day deadline. There was general agreement among professionals that mediation shouldn't take place within 10 or 15 days of the initial hearing because enough time needs to elapse in order to make the most effective use of mediation. On the other hand, there was little interest in extending the deadline much beyond 30 days because some of the benefits of mediation are lost if it takes place too late. Generally, almost all professionals thought 30 days was an ideal time.



Recommendation: Because scheduling difficulties lead mediations to be held too soon or after the deadline, the deadline for mediation should be extended to 40 days for cases in which the child is removed.

More than half of mediations were delayed by participants arriving late

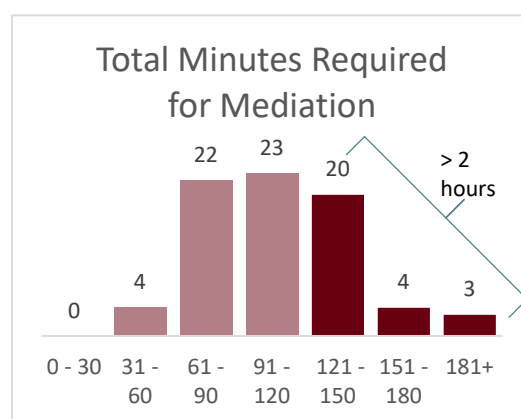
Only 19% of mediations started within 15 minutes of the scheduled start time, with 53% starting within the 30 minutes for which participants are required to wait before cancelling the mediation. Most of the mediations that started late (after 15 minutes had elapsed) were due to participants arriving late. Professionals arrived late for 29 mediations, while parents were late for 22. Eleven mediations were delayed or further delayed by the parent's attorneys talking with their clients.

Reasons for Delay	
Reason	#
Professional Late	29
Parent Late	22
Attorney/Client Talk	6
Discuss Stipulation	2
DV Screening	2

Recommendation: In order to limit the amount of time lost to parents arriving late and/or needing to speak with their attorneys before mediation, require that parents and their attorneys arrive 30 minutes before mediation so that they have time to talk before the scheduled start time.

Mediation requires on average almost two hours to complete

Mediations that occurred during the study period averaged one hour and 53 minutes from the scheduled time to the end of the mediation, including wait time, with 36% taking more than two hours. In the focus groups, many professionals were interested in reducing the amount of time spent in mediation. This is not recommended; many of the benefits of mediation, such as helping parents to understand their situation and their responsibilities, as well as defusing emotions and enhancing communication, require time for a full discussion.



Recommendation: Do not reduce the three-hour time requirement for mediation.

Pre-mediation reports are sporadically submitted

Although each professional participant in mediation is required by rule and the court order to submit a report two days before mediation, submission rates ranged from 20% to 62%, and reports were submitted on time for fewer than a quarter of the mediations. This is problematic because professionals and mediators alike believe these reports provide important information that can make the mediation more effective and efficient. But the professionals also note that the reports take time that they don't feel they have.

Recommendation: Streamline the reporting process to obtain the same information while making it less time-consuming for professionals to provide it.

Mediation process findings and recommendations

There is no written list of action steps for the participants to reference

Mediation often ends without a summary of what was discussed, and nothing is written down. It would be useful for the participants to have a list of decisions made and actions to be taken. This would help parents remember what they had agreed to do, as well as have something concrete that says what others involved in their case would be doing to move their case along. Professionals themselves can rely upon the written list as well. Further, it will ensure that everyone leaves mediation on the same page.

Recommendation: Create a form for mediators to capture action steps agreed to in mediation that can be distributed to the mediation participants.

All those involved in the program would benefit from more training or education

Through the focus group discussions, interviews and mediation observations, it became clear that all involved in mediations could benefit from more information.

- Parents could use more information about what mediation is. They arrived at mediation with a vague sense of the purpose and what would happen.

Recommendation: Develop communication tools (e.g., video, website, app, brochure) to introduce parents to mediation.

Recommendation: Educate parent's attorneys on how best to present and prepare their clients for mediation.

- Professionals could use more information about what the mediator's role is in mediation, as well as how best to participate in the process.

Recommendation: Work with the different agencies and offices to develop educational opportunities for the professionals to learn more about mediation from program staff, mediators and each other.

- Many of the social workers in the focus group said that they did not know what the purpose of mediation was. As they have high turnover and little experience with mediation, they need more consistently-provided basic information about mediation and their role in it.

Recommendation: Develop educational materials, such as an introductory video or webinar, for incoming social workers.

- Mediators indicated they needed more guidance about their role in facilitating stipulation and what to do when the family team meeting has just been held. Professionals believed mediators could benefit from more information about the child protection system and the population it serves. Mediators also want more regular feedback about their individual mediations and opportunities to meet with other mediators to exchange tips and discuss issues.

Recommendations: Provide regular opportunities for mediators to meet with each other to discuss cases. Provide more opportunities for debriefing mediations with program staff. Provide guidance about what mediators' role is regarding the stipulation discussion and discussion of services and visitation.

The program is hard to find

Professionals involved in the program were very clear that the program was very difficult to find and that needed to be addressed. There is no signage and no way of knowing the mediation program was inside the building. Further, the door is around the corner from where one would expect it, has no windows and is unmarked. Professionals noted this was a source of frustration for parents and a reason for them being late.

Recommendation: Put signs on the building grounds and door directing people to the mediation program.

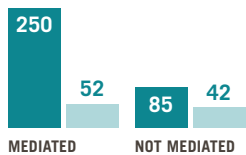
PROGRAM PERFORMANCE

DISTRICT OF COLUMBIA COURTS CHILD PROTECTION MEDIATION PROGRAM EVALUATION SUMMARY • 2018

GOALS:

The goals for the program include discussing and reaching an agreement (stipulation), increasing parental compliance with services, reducing time to a permanent home, enhancing understanding and communication, moving the case plan forward, and providing parents with the opportunity to speak and be heard.

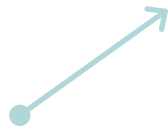
IMPACT OF MEDIATION



Mediated cases were **twice as likely to stipulate** before trial



MEDIATION SHOULD INCREASE COMPLIANCE AND THE PROBABILITY OF STIPULATION, AND REDUCE THE TIME TO PERMANENCY.

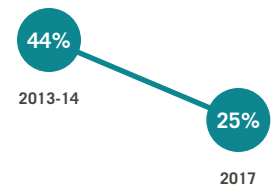


Parents who mediated were **more compliant with services**



There was **no impact on time to permanency**

AGREEMENT RATE



Fewer mediations ended with a stipulation in 2017

MOVE CASE FORWARD



MEDIATION SHOULD IMPROVE UNDERSTANDING AND COMMUNICATION, AND HELP WITH THE CASE PLAN.

9/10

Parents better **understood** others' POV and what to do next

3/4

Professionals better **understood** others' POV and parents' situation

91%

Mediations in which the **case plan was clarified or improved**

50%

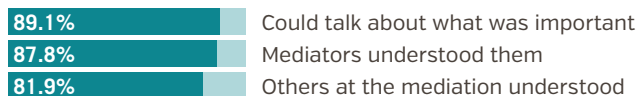
of mediations **improved communication** among professionals

PARTICIPANT EXPERIENCE

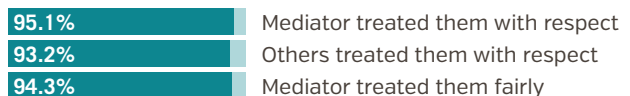


PARENTS AND PROFESSIONALS SHOULD FEEL THEIR VOICE HAS BEEN HEARD IN THE MEDIATION AND BELIEVE THEY WERE TREATED FAIRLY AND WITH RESPECT. PARENTS SHOULD LEAVE FEELING GOOD ABOUT THE PROCESS.

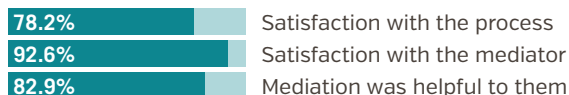
Parents left feeling they had voice...



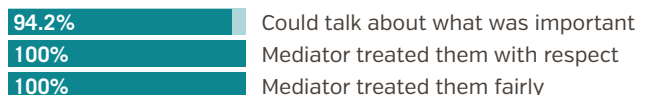
Parents left feeling they were treated well...



Parents left feeling good about the process...



Professionals left feeling heard and treated well...



PROGRAM PERFORMANCE

In evaluation terms, program performance is defined as the outcomes of the program and the impacts it has on cases and the participants. For this evaluation, performance was examined in terms of the:

- Percentage of referred cases being mediated
- Percentage of mediations ending with an agreement on the stipulation⁵ or dismissal of the case
- Frequency of cancellations and no-shows
- Impact of mediation on the probability of stipulation, hearings, time to permanency and parental compliance with services
- Presence of other outcomes that can help to move the case forward
- Participant experience

In the court's case management system, each child is tracked separately with his own case number. The mediation program tracks one case per family as mediations. For this and other reasons discussed below, each family was treated as one case for this evaluation, and the following discussion of the mediations will be using the term "case" for each family. The evaluation includes 429 cases filed 2013-2014 and 124 cases referred to mediation between April and October 2017.

SUMMARY

The court, program and professionals have articulated a number of goals for the mediation program. This evaluation indicates that, for the most part, these goals are being achieved. Mediation is providing numerous benefits to the participants and the case, with benefits seen in almost all mediations. The goals include:

- Facilitate the development of early, appropriate and comprehensive case plans⁶
- Facilitate a full exchange of the most current case information and encourage accountability of family members and professionals interacting with the family
- Reduce the amount of time that children spend in the foster care system waiting for permanency
- Make progress on the legal issues in the case and reach agreement on the stipulation
- Help parents to understand their situation and their responsibilities going forward
- Increase professionals' understanding of the case, the parents and the family's situation
- Provide parents with an opportunity to talk about their concerns and be heard

Almost every mediation that took place during the 2017 study period achieved at least some of the goals articulated above. The most commonly achieved were making progress on the case plan, as well as

⁵ A stipulation is an agreement between the parents and the government as to the facts of the case. By signing a stipulation, the parent agrees that it could be proven at court that their child fit the definition of abused or neglected, and therefore waives their right to a trial.

⁶ Case plans include the services parents and children need, assessments that are required to determine whether services are needed, and visitation.

those goals focused on the parents: giving them an opportunity to speak and be heard and enhancing their understanding. But professionals benefit as well, primarily by gaining understanding of others' points of view and the parents' situations and being better able to communicate, which help them to better understand the case and the parents. Parents and professionals alike had largely positive responses to their experience in mediation, and parents overwhelmingly said it was helpful to them.

Stipulation at mediation, however, shows a negative shift over time. It occurred in 25% of cases in 2017, down from 44% in 2013-2014. On the other hand, a greater percentage of cases was mediated in 2017 than 2013-2014, which means that the benefits of mediation noted above are accruing to a greater proportion of parents.

When compared to non-mediated cases, cases that were mediated in 2013-2014 were twice as likely to end in stipulation than those that were not mediated, even given the existence of a companion criminal case and taking other contributing factors into account. Participating in mediation also likely increases parents' compliance with services. The impact of mediation on time to permanency and number of hearings, however, was unclear, due in large part to incomplete data, and in part due to mediation having an apparent positive effect on time to permanency for cases ending in reunification, custody and guardianship, but an apparent negative effect on cases ending in adoption.

RESULTS OF MEDIATION

The results of mediation were examined and compared for cases filed and mediated in 2013-2014, and cases mediated between April 1, 2017, and October 31, 2017. Since the data for the two time periods are not completely analogous, they will be discussed separately, and the discussions will not be completely parallel.

2013-2014 Mediations

Background of cases

In 2013-2014, petitions were filed for 511 families. Of these, 82 were not-petitioned (meaning the petition was withdrawn), were dismissed or had an immediate trial. These were not comparable to mediated cases and therefore were removed from the dataset. The other 429 were used for analysis. Of these, 419 were referred to mediation and 302 were mediated prior to the end of 2014. Of the 117 that weren't mediated, 99 were either cancelled or not held, 10 were dismissed and 8 were scheduled for mediation in 2015.

2013-2014	# of families
Petitions filed	511
Used for analysis	429
Referred to mediation	419
Mediated	301

Agreements in mediation

Finding: In 2013-2014, 43% of mediations ended with an agreement

Mediation ended with an agreement, which in this context is a signed stipulation or agreement for dismissal, in 132 cases. This is 43.7% of the 302 mediations, and 32.9%⁷ of all cases referred to mediation.⁸

Mediation rate

Of the 401 referred cases that were scheduled to mediate prior to 2015, 99 (24.7%) weren't mediated. These 99 included 18 that were not held because the parties agreed to stipulate beforehand. Another 37 were cancelled for various reasons, such as being screened out due to domestic violence or the mother entering Family Treatment Court. Parent no-shows accounted for 44, or 11.0%, of the referred cases.

2017 Mediations

Background of cases

From April 1, 2017, through October 31, 2017, 124 mediations were scheduled. Of those, 96 were held. The other 28 were either cancelled beforehand or were not held because at least one parent didn't appear.

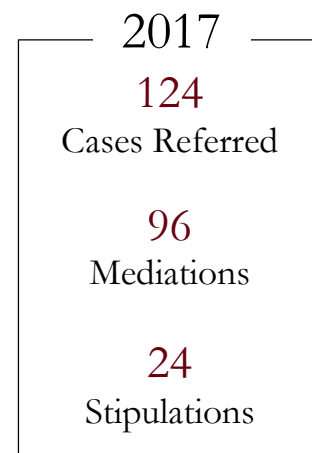
Agreements in mediation

Finding: In 2017, 25% of mediations ended with agreement

Of the 124 cases referred to mediation, 24 ended with a stipulation or agreement to dismiss. This represents 25% of the 96 mediated cases and 19.4% of all referred cases.

Mediation rate

In all, 28 cases referred to mediation weren't mediated. One was dismissed prior to mediation, leaving 123 cases that were open at the time of the mediation, of which 27 (21.8%) weren't mediated. Nineteen of the referred cases, or 15.3%, were not held because at least one parent didn't appear.



⁷ This percentage does not include the cases that were referred to mediation in 2014 and scheduled to mediate in 2015.

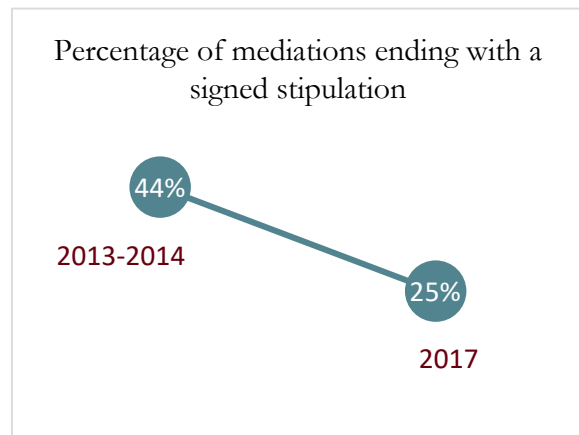
⁸ These numbers may not be the same as reported by the program. The program follows up on cases to see if they stipulate after mediation and counts those stipulations filed up to a month later. For this evaluation, agreements were counted only for those stipulations that the program recorded as having occurred at the mediation. Using only those agreements that are reached at mediation allows for a determination as to whether particular case characteristics increase the probability of agreement in mediation. Further, there is considerable debate about how much credit to give mediation for later agreement and how long after mediation such agreements can be credited to the mediation. This provides the most conservative estimate as possible.

Comparison between 2013-2014 and 2017

Finding: The probability of mediation ending with agreement declined by almost half between 2013-2014 and 2017.

In 2017, 25% of mediations ended in agreement, much below the 44% that ended in agreement in 2013-2014, a 43% decline. Although the reason for the decline is not empirically known, there are a few possible explanations. Between 2014 and 2017, two significant changes took place in the processes surrounding child protection cases. First, CFSA implemented Open Door in 2015. This is a policy to work with families to keep them out of the court system, and to only file petitions when those efforts have failed. There is general agreement that this has led to only the more challenging cases being petitioned.

The second change was an appellate court ruling stating that an evidentiary hearing has to be held when a change in goal is entered for a child. Because almost every case starts with a goal of reunification, this means that when the court determines that the goal should be changed to adoption, a hearing has to be held to determine if the evidence supports this. Some involved in child protection cases believe that this may be emboldening the parents to reject stipulation.



Finding: A greater percentage of referred cases were mediated in 2017 than in 2013-2014, though fewer parents showed up

The percentage of referred cases that were mediated rose from 75.2% to 78.2%. The difference is due in large part to fewer cases being cancelled due to a pre-mediation stipulation. On the other hand, parents were less likely to show up for mediation, as no-shows increased from 11.0% of all referred cases 2013-2014 to 15.3% in 2017.

These differences – the higher percentage overall of referred cases being mediated, but with a higher percentage of parent no-shows – may be due to changes in practice. These both could be due the CFSA Open Door program mentioned above. There is general agreement that Open Door has led to only the most challenging cases being petitioned. This may mean that a smaller percentage of parents are willing or able to engage in the process or stipulate before mediation. The higher mediation rate could also be due to the program being more insistent that mediations go forward, even if the stipulation has been signed beforehand.

No matter what the reason, the higher mediation rate means that a greater percentage of parents gained the benefits of mediation in 2017. As will be discussed below, this is significant because mediation has a positive impact on stipulation and, probably, on parental compliance with services.

COMPARISON BETWEEN MEDIATED AND UNMEDIATED CASES

Cases filed in 2013-2014 that were mediated were compared to those that were not mediated to determine the effect of mediation on eventual stipulation, parental compliance with services, time to

permanency and the number of court hearings held.⁹ The data shows that parents who mediate are twice as likely to stipulate at some point before trial and are likely to be more compliant with services, but that the time it takes for children to have a permanent home and the number of hearings held are not affected by mediation.

Effect of Mediation on Stipulation

Finding: Mediated cases were twice as likely to stipulate than cases that didn't mediate

Of the 302 cases that mediated, 250 stipulated while 52 did not, a margin of 5-to-1. By contrast, of the 127 cases that did not mediate, the margin

	Mediated	Not mediated
Stipulated	250	85
Did Not Stipulate	52	42

of cases that stipulated was only 2-to-1, or 85 vs. 42. The statistical significance of this difference held when taking into account the initial goal for the case and whether there was a companion criminal case. In the regression model, odds that an agreement was reached on stipulation in a mediated case as compared to a case that did not mediate was about 2:1. Translated into probabilities, this means that cases that were mediated had approximately a 65% likelihood of having a stipulation filed before trial, while a case that did not go through mediation had a roughly 35% likelihood of a pre-trial stipulation.

NOTE: Because of the changes made by CFSa in 2015, which judges and professionals state has led to only the most challenging cases being petitioned, these results may not be applicable to current cases.

Compliance

Theoretically, parents who attend mediation should comply more with services than parents who don't. They have been able to express themselves, ask for what they need and feel heard. They have also been able to learn more about what is expected of them, and it is hoped they come to trust the professionals involved in the case to the extent that they can feel that if they do comply with services, they will have a greater chance of having their children returned to them. This theory appears to hold up for the mediation program.

Method

Sixty matching cases from the 2013-2014 data set were selected for analysis. Thirty of the selected cases had been mediated, thirty cases had not. The cases were matched on whether the child was removed, whether a stipulation was entered, the type of action (abuse, neglect and so on), the initial goal, the age of the youngest child and the number of children. For each case, a researcher from the Court Services Division copied the reports in court orders regarding progress on services and compliance by parents. These were then blind coded by the evaluator as compliance, no compliance, unknown and not applicable. Of the 30 initial pairs, only 15 could be used for analysis. For the others, at least one case did not have sufficient information to determine compliance or was inapplicable because the initial goal was adoption or guardianship.

⁹ See the "Methodology" section for more information on the method for comparing cases.

Compliance outcomes

Finding: Parents who mediated are likely to be more compliant with services

Parents who mediated were more likely to comply with services than those who did not. Parents in 12 of the 15 mediated cases complied with services and three did not. Of the 15 that didn't mediate, seven complied with services; eight did not. Statistically, the level of significance of this is just above the usual margin of .05. However, there were a large number of cases with missing data. Because of this, it is not

Did parents comply with services?			
	Yes	No	Total
Mediated	12	3	15
Not Mediated	7	8	15
Total	19	11	30

possible to make a causal connection between mediation and parental compliance with certainty. For a second run, it was hypothesized that the cases with unknown compliance were cases in which the parents were originally not compliant, leading to a goal change (something that occurred in all these cases). The results of this analysis were significant at the .05 level. Unfortunately, not all goal changes are due to noncompliance. Therefore, this result is also not to be relied upon. The best that can be said is that it is likely that parents are more compliant with services if they participate in mediation.

This finding is compatible with findings from other studies, which determined that mediation led to increased compliance. In a study of three mediation programs (in Hartford, Connecticut; Los Angeles; and Orange County, California), it was found that participation in mediation led to greater commitment to the agreement.¹⁰ In another study of five programs in California, mediated cases showed better compliance with treatment plans than those that did not mediate: at six months post-disposition 42% of mediated cases had complete compliance, as compared to 25% of non-mediated cases. In another study of seven programs in Michigan, full compliance 60-90 days after agreement was found in 73% of mediated cases.¹¹

Effect of Mediation and Stipulation on Time to Permanency

Finding: There appears to be no statistical relationship between mediation or stipulation and time to permanency

There was no overall relationship between mediation and time to permanency, meaning that mediation had no statistically meaningful effect on the length of time a child is in care. This may be due to the large number of cases that had not yet closed by April 2017, when the data for 2013-2014 cases was downloaded for analysis. In all, 139 of 429 cases (32%) were still open at the time. Because of this issue, any determination of the causal effect between mediation and time to permanency is tenuous.

With this limitation in mind, it was decided to examine the data in two ways, neither of which was fully satisfactory. The first was to examine only those cases that had been closed. The second was to create a dummy closed date, which was the date the spreadsheet of cases was created. In both cases, mediation had no significant effect on time to permanency.

¹⁰ Nancy Thoennes, *An Evaluation of Child Protection Mediation in Five California Courts*, FAMILY AND CONCILIATION COURTS REVIEW (April 1997).

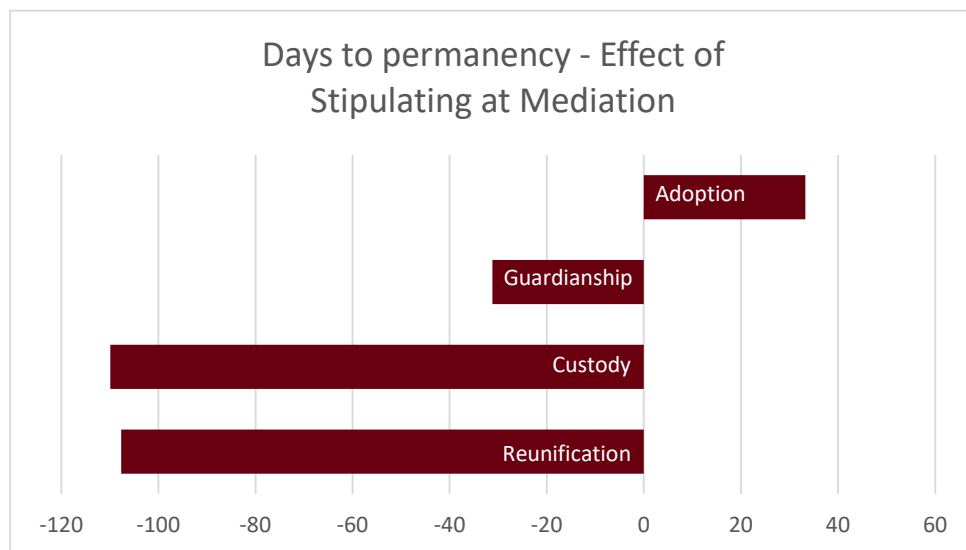
¹¹ Gary R. Anderson & Peg Whalen. PERMANENCY PLANNING MEDIATION PILOT PROGRAM: EVALUATION FINAL REPORT. MICHIGAN STATE COURT ADMINISTRATIVE OFFICE (June 2004). Online at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Reports/Permanency%20Planning%20Mediation%20Pilot%20Program.pdf>.

In order to understand why this was, when parents who have mediated are twice as likely to stipulate than parents who did not, and stipulation is widely believed to reduce time to permanency, the data was explored more deeply. This included looking at the impact of stipulation on its own and looking at what later in the case might affect time to permanency. Analysis showed that, similar to mediation, cases that reached stipulation had an ambiguous association with time to permanency.

Digging deeper into the data exposed two trends that point to why this was. The first trend was that the interaction between mediation and time to permanency (and stipulation and time to permanency) was different for different dispositions of cases. The second was that cases in which there was a goal change took significantly longer to reach permanency.

Mediation and stipulation both led to shorter or longer times to permanency versus those cases that weren't mediated or stipulated depending on the disposition of the case. For cases that ended in reunification, custody and guardianship, time to permanency was shorter when parties mediated and/or stipulated. But for cases that ended in adoption, mediated and/or stipulated cases took longer to reach permanency.

Cases that ended in reunification averaged 365 fewer days to permanency if there was a stipulation as compared to those in which there was no stipulation. However, this should be viewed in light of only eight cases ended in reunification without having a stipulation filed. For cases ending with a previously



non-custodial parent gaining custody, the time to permanency was 250 days shorter for stipulated cases. For cases ending in guardianship, stipulated cases took 98 fewer days to reach permanency. On the other hand, adoption dispositions took 208 days longer when the parents stipulated. When cases stipulated at mediation, the same pattern held, albeit less dramatically. As compared to cases that stipulated after mediation or did not stipulate, cases that stipulated at mediation closed 107 days earlier for reunification, 109 days earlier for custody, and 31 days earlier for guardianship. Cases that stipulated at mediation closed 33 days later for adoption cases. None of these results is statistically significant.

This relationship was best understood when looking at what affected time to permanency. The largest effect was from change in goal, primarily from reunification to adoption. A goal change added on an

average 310 days to permanency, and mediation and stipulation both appeared to lead to longer times to permanency when a goal change was involved.

To check that the results weren't due to open cases having different characteristics than those that were already disposed, the open cases were compared to closed cases on whether they were mediated, whether there was a stipulation, what the initial goal was and what the final goal was. There was no significant difference between the open cases and the closed ones on these characteristics. Therefore, it is apparent that the trends seen in the closed cases are not due to differences between closed and open cases.

These somewhat perplexing results may be due to the child welfare system's interest in reunification, understanding that the best home for children, if at all possible, is with their natural parents. It may be that those parents who go through mediation and/or stipulate are more likely to try harder, as seen in the results regarding mediation's effect on parental compliance with services, and their efforts are recognized by maintaining the reunification goal for a longer period of time.

Impact of Mediation on Hearings

Finding: Mediation doesn't impact the number of hearings per case

Mediation was found to have no impact on the number of hearings held per case. The number of hearings is directly correlated with days to permanency.

Judges see better post-mediation hearings

Although mediation did not appear to affect the number of court hearings held, the judges noted in interviews that mediation had a positive effect on hearings held afterward. Some judges indicated that they saw a difference among parental attitudes that they attributed to mediation. Parents are more willing to participate in the process and work with their attorney, and are more accepting of services. They are also calmer and less upset. If they have stipulated, they're more open to what "went down" and to "get it." Others noted that the hearings run more smoothly and that stipulation changes the conversation, making it less litigious and more collaborative.

These responses should be understood within the context of the judges not always knowing if mediation has occurred.

OUTCOMES THAT MOVE THE CASE FORWARD IN OTHER WAYS

A main purpose of pre-trial mediation is to help move the case forward, which should ideally be beyond reaching agreement on the stipulation. Options include:

- Progress on the stipulation
- Progress on the plan for the case
- Enhancing parents' understanding of their situation and what they need to do going forward
- Improving understanding of each other's views, the case, and the family's situation
- Enhancing communication among professionals
- Reducing emotions that may inhibit progress
- Keeping professionals accountable for what they should be doing for the case and the family

These goals move the case forward not only through concrete progress on aspects of the case, such as stipulation and services, but also by putting in place the factors needed for that progress to continue to

be made. Enhanced communication and improved understanding provides professionals with the necessary information to make good decisions about the case and to ensure the parents have the services they need to work toward reunification. If parents' emotions are defused and they understand their situation, they are more likely to engage in those services, as well as to stipulate to the facts of the case, when appropriate. If a stipulation is filed, focus can move from the legal issues to collaborating on seeing that the child has a permanent, stable home as soon as possible.

Most mediations ended with at least one of these goals being achieved, with a majority ending with the achievement of more than one goal. Chief among these goals was making progress on the plan for the case, defined here as discussing, clarifying, modifying or adding services and visitation. Progress on the plan for the case occurred in 91% of mediations, according to the mediators. In concrete terms, services were improved or added and a visitation schedule was changed or created in about two thirds of mediations.

The goals for parents were also achieved in most mediations. Most parents said they better understood the points of view of the others at the mediation and what they needed to do next. In about half of the mediations, mediators said that the parents' emotions were defused.

Professionals, too, saw benefits from mediation. About three quarters said that they better understood the points of view of the others at the mediation and that they understood the parents' situations better as a result of mediation. Additionally, in about half of the mediations, a professionals said that communication was improved.

Method

To better understand the ways in which mediation might move the case forward, the evaluation relied on five sources of information: mediator, parent and professional post-mediation surveys; parent interviews; and mediation observations. Focus group discussions and judge interviews provided context for the results from these five sources of information.

Progress on Stipulation

Mediators and professionals were both asked what occurred regarding stipulation during the mediation. Their responses were not always in agreement as to whether there was progress on the stipulation for a particular case. This included differences between responses of the mediators and professionals, as well as between those of professionals. This makes it impossible to know objectively how much mediation aided in progress toward stipulation. Instead, it can provide insight into what professionals perceived the impact of mediation to be on the stipulation.

The data comes from mediator surveys for 84 cases and professional surveys for 59 cases. There was overlap in responses between the two on 53 cases.

The two surveys were not parallel in what they were asking. The mediators, who were being relied upon to report mediation outcomes, were given five options regarding stipulation: agreement was reached before mediation, agreement was reached in mediation, progress was made on the contents of the stipulation, stipulation was discussed but no progress was made, and stipulation was not discussed. The professionals were asked what benefits derived from mediation. Two of the options were agreement on stipulation and progress on stipulation. The differences in the questions, however, should not have led

to different responses. That is, mediators and professionals should have the same understanding of what “progress on stipulation” means.

Finding: Mediation had a positive effect on stipulation for about 1/2 of the cases mediated

The mediators and professionals each reported progress on stipulation during 23 mediations, but they weren’t always the same mediations – the professionals and mediators agreed on eight of the cases in which they overlapped. The professionals also did not agree with each other in all cases, with all of them in agreement in 15 cases of the 59 cases for which they responded, or 25.4%.

The lack of agreement means that the best conclusion that can be made is that progress was made on the stipulation in the 15 cases in which all the professionals agreed. When added to the 24 cases in which mediation led to an agreement on stipulation, it appears that mediation had a positive effect on stipulation for at least 39 of 96 cases, or at minimum for 40.6% of the cases mediated. However, the professionals did not respond for all cases. At maximum, the professionals would have agreed that progress was made on the contents of the stipulation in all 37 mediations for which they did not respond, leading to mediation having a positive effect on stipulation in 76 of 96 cases, or 79.2%. Given the responses, this is very unlikely. A conservative estimate can be made by using the same 25.4% of mediations in which progress was reported by the professionals for the 37 cases that have no associated professional survey. Using this estimate, progress would have been made in 24 cases, with a positive effect on stipulation in 48, or half of all the mediations.

Progress on the Plan for the Case

For each case, a plan is set up regarding placement of the children, services for parents and children, and visitation between the parents and their children while they are in care. Services for children are most likely mental health assessments and therapy and the appointment of an education attorney. For parents, drug assessment and testing, mental health assessment and therapy, housing, and assistance in job training might be provided. The case plan generally takes shape in the family team meeting, and should be filed with the court within 60 days of the initial hearing. In order to assess whether mediation is helping to develop the case plan, the mediators were asked two questions:

- Was a plan set up for the case prior to mediation?
- Was a plan set up for the case during the mediation?

The definition of a plan for the case is broader than just whether placement, visitation and services were changed or developed. In the program’s view, progress is made when these are discussed and clarified. The mediators’ assessment was that mediation ended with a plan for the case in more than three quarters of those mediations they reported on, and with progress on the plan in 91%.

Data

Data regarding progress on case plans was collected from mediator post-mediation surveys. They supplied information for 84 of the 96 cases mediated during the study period. Because this is survey data, it relies on the information that the mediators were given about the case, which may be subjective.

Mediators indicated a plan for the case was set up for 78% of the cases

According to the mediators, a plan was set up for the case prior to 19% of the mediations on which they reported. They also stated that there was no plan set up for the case before 37% of the mediations, while in 33%, the plan was partially set up. The mediators indicated that for those 70% of cases in which a plan for the case had not been set up, 78% of the mediations ended with a full plan for the case. In another 13%, the plan was partially set up by the end of the mediation. For 9.5% of the cases, the mediators said no progress was made on the case plan during mediation, although it was at least partially set up beforehand. According to the mediators, three of the mediations ended with no case plan put in place at all, either before or during mediation.

91%
progress on plan
for case

Given that for most cases a family team meeting most likely had already been held, it doesn't seem realistic that 37% of cases had no plan set up prior to the mediation. This may mean that the mediators could not accurately answer whether a plan had been set up prior to mediation. They could assess whether the mediation ended with progress on a plan for the case however. They indicated progress was made in 91% of the cases overall.

Addition or Change to Services/Visitation

In almost every mediation, the participants place services on the agenda. The purpose is to discuss their status, what might need to be changed or added, and what steps need to be taken to make sure services are in place. It is seen by judges, professionals and the program as an opportunity to move the case forward by identifying the parents' and children's needs for services and addressing visitation and placement.

To assess whether mediation is moving the case forward by addressing the parents' and children's needs, the mediators and professionals were asked whether services were added and/or improved and whether a visitation schedule was created or changed during the mediation. The mediators and professionals who responded regarding the same cases often had differences of opinion as to whether this happened, but in the end reported this outcome in a similar percentage of cases. The differences in responses may be due to professionals thinking only about their client when responding about whether services or visitation were changed.

In interviews, parents who had services added or changed, or whose children had services added or changed, were primarily pleased with those changes. They saw them as providing greater support to them and their families, and sometimes as giving them greater hope, as was the case with a father who was grateful for the support he was being given in his pursuit of an HVAC certification, and a mother who saw Family Treatment Court as providing a path to sobriety. On the other side, one parent was unhappy that therapy for her child was being pressed on her.

Finding: Between half and 2/3 of mediations led to changes or additions in services and/or visitation

The professionals said services and/or visitation were changed or added in 50% of the mediations for which they completed surveys. The mediators reported that in 64% of the mediations, services and/or visitation were added or changed. Thus, it appears that mediation is moving the case forward by addressing services and visitation in a minimum of half of the cases and a maximum of almost two-thirds of them.

Understanding and Communication

An important goal of mediation in the child protection context, one that was expressed by the program staff, judges and many professionals, is to enhance understanding of and among the participants. Parents should leave mediation better understanding others' views and their responsibilities in the case. Professionals should leave with an improved understanding of the family's situation and the points' of view of others involved in the case. Staff, judges and professionals alike see achieving these goals as increasing parental compliance with services and helping the professionals to make better decisions about the family and the case.

Data

Data regarding the effect of mediation on the parents' understanding comes from 83 post-mediation surveys the parents completed and 10 parent interviews, as well as from 84 mediator post-mediation surveys and 88 professional post-mediation surveys. Data about how mediation affected professional's understanding and communication comes from the post-mediation surveys completed by the professionals. Mediator surveys contribute to the data regarding the effect of mediation on communication between the professionals.

NOTE: Both parent surveys and professional surveys use a 5-point scale for most questions. They are all similar to the following:

1 – Not at all 2 3 – Somewhat 4 5 – Very much

During discussion of survey responses, 4 and 5 are considered to be positive responses, 3 is considered to be equivocal, and 1 and 2 are considered to be negative responses. 1, 3 and 5 will always include the defining text: 1 (not at all), 3 (somewhat), 5 (very much).

Parents' understanding

Survey and interview data point to almost all parents improving their understanding through mediation. This includes their understanding of both others' points of view and what they need to do next in the case.

On the parent's survey, parents were asked two questions about whether mediation changed their level of understanding: whether they understood the point of view of the other participants better and whether they better understood what they needed to do next. In interviews, parents were also asked about their understanding of what they needed to do next and when they were next going to see their children.

Finding: Parents are gaining better understanding of others and of their own situation through mediation

Almost all parents felt they understood the other participants' point of view better because of mediation, with 90% of respondents feeling strongly that they did, and another 9% saying they understood their point of view "somewhat better." Only one parent did not gain understanding through mediation.

Parents' Understanding	
Better understand others	90.1%
Better understand what to do next	87.8%
Know when will visit children	72.5%

Similarly, almost all parents who responded – 79 of 82 – believed that they at least somewhat better understood what they had to do next as a result of mediation, with 71 (88%) responding with a 4 or 5 (very much) on a 5-point scale.

One possible reason for parents' increased understanding of what they needed to do next is that when they were offered new services or their current services were changed, as happened in half to two-thirds of mediations, they gained a greater understanding of what they were supposed to do. In interviews, the effect of these changes was seen in the six of ten parents who had additional services offered to them in mediation. Their comments showed they knew what was being offered and what that meant for them. Thus, for those whose services were changed, the discussion in mediation clarified for them what steps were going to be taken next.

But, mediation appeared to help more parents to understand what they had to do next than just those who had their services added or changed. This indicates that the discussion itself was illuminating for the parents, regardless of whether there were any changes to their services. Indeed, this is what was seen in the 18 observed mediations. In all but one, the discussion was seen to increase the parents' understanding of their situation, the process going forward and their responsibilities.

Parents were less likely to say that they understood when they would next visit their children than to understand what they needed to do next, with 50 of the 69 (73%) who responded saying they knew, responding with a 4 or 5 (very much). Eight others indicated some uncertainty, saying they "somewhat" knew, while 11 said they did not. It is not clear why fewer parents knew when they were next going to visit their child than understood what to do next. It's possible that visitation had yet to be finalized by the end of mediation. Something else to keep in mind is that this question does not necessarily indicate that mediation increased parents' understanding of when they were going to see their child, since many parents were clear about their visitation schedule before mediation, and visitation was not discussed in a good proportion of mediations. However, in the seven observed mediations in which it was discussed, issues surrounding visitation were clarified, from the process for moving from supervised visits to unsupervised to who might be able to supervise those visits to what needs to happen in order to increase visits.

Mediators and professionals believed expectations were clarified for parents

Most mediators and a majority of professionals also saw mediation as helping parents to gain understanding about what their responsibilities will be moving forward. In 89% of the mediations, mediators said expectations were clarified for the parents. This mirrors what the parents themselves said. As noted above, 95% of parents said that they better understood what they needed to do next.

Fewer professionals believed mediation led to clarification of expectations for the parents. In 44 of 60 mediations (73%), the professionals saw this as an outcome. It is unclear why the professionals were less likely to see mediation as helping parents to better understand the expectations of them than the parents, mediators and observer.

Professionals' understanding

One of the main goals of the court and of the professionals involved in the focus groups was to gain more understanding of the case, the family, and the goals and positions of the other professionals. The professionals saw this information as helping them to make better decisions about the case going forward.

To test whether mediation was providing this benefit, professionals were asked two questions on the post-mediation survey about whether mediation increased their understanding. The first asked whether they better understood the point of view of the others at the table. The second asked whether they gained greater understanding of the family's situation through mediation. Most of those who responded to the survey indicated that mediation did help them to gain a better understanding of both. In focus groups, the guardians ad litem (GALs) and parent's attorneys also indicated that mediation provided this benefit.

Finding: Most professionals gained understanding of others and the family through mediation

Of the 86 professionals who responded, 64 (74%) said that they better understood the others' points of view after mediation, responding with a 4 or 5 (very much) on a 5-point scale. Another 13 (15%) responded with a 3, saying that they "somewhat" better understood. Nine (11%) said that they did not gain understanding.

A similar number of professionals – 65 (75.6%) – said they gained a greater understanding of the

Professionals' Understanding	
Better understand others	74.4%
Better understand parents' situations	75.6%

parents' situations (responding with a 4 or 5), while nine (10.5%) said "somewhat" (responding with a 3) and 12 (13.9%) said they did not (responding with a 1 or 2). Of the 21 who didn't gain more than somewhat better understanding, 15 said they already understood the parents' situations. These were divided between seven AAGs, four parent's attorneys, three GALs and a social worker. Interestingly, four of the responses were from the same AAG (in four different cases).

Communication among professionals

One of the court's goals for mediation is for the professionals to exchange information. This goal was echoed by a number of focus group participants, who said they went into mediation with the goal of sharing information. Judges also saw the exchange of information as important. For them, it as a forum for discussing positions and narrowing issues. To find out if mediation is enhancing the communication necessary for the exchange of information to take place, the professionals were asked if this was a benefit in their post-mediation survey. Mediators were also asked if this was an outcome of the mediation.

Finding: Mediation was seen to enhance communication in 43% to 69% of cases

Professionals who responded to the survey said that communication was enhanced for them in 26 of 60 cases, meaning that in 43% of the cases, at least one professional believed that communication was enhanced among the professionals involved in the case. But not every professional who responded for a particular case may feel the same way. This was the situation in nine of the 19 cases in which more than one professional responded. In another nine, the professionals were in agreement that communication was not enhanced. It's understandable that professionals had different responses to the same case. It may be that one professional felt that they had a chance to communicate in a way they hadn't before, while another did not have that same experience.

Mediators were much more positive about whether communication was enhanced, saying that it was in 58 of 84 mediations, or 69% of them, likely because they were responding in terms of all participating professionals. Outcomes observed by the evaluator support the mediators' assessment of whether

communication was enhanced; in all but one case, the evaluator and mediator both believed that communication was enhanced for the same observed cases. Thus, it is likely that mediation improved communication among the professionals for a large majority of cases.

Accountability

One of the court's goals for the mediation program is to increase accountability among professionals. This was also a goal for a number of professionals in the focus groups, who spoke about the role mediation plays in keeping others accountable for what they should be doing for the case, as well as creating action steps for the future. Survey responses indicated that this occurred in a minority of cases.

The surveys the professionals completed after mediation included "Professionals were held accountable for their tasks related to the case" in the list of possible benefits of the mediation that they could choose from. Fifteen professionals selected this as a benefit of their mediation. Each of the fifteen professionals responded for a separate case, so professionals in 25% of the cases for which they responded believed that an outcome of their mediation was that at least one professional was held accountable.

Defusing Strong Emotions

Parents who are brought into the child protection system are often very angry and upset. This is problematic, as research suggests that parents often deal with the pain of loss of custody of their children by withdrawing from them, which causes the children to feel rejected and vulnerable.¹² Past research has also demonstrated mediation's effectiveness at lowering hostility, and thus opening the parents up to participating in the process.¹³ In this program, judges and professionals noted in interviews and focus groups that parents are more open to stipulation once their anger has dissipated.

In 41 of 83 mediations (49.4%), the mediators said an outcome of the mediation was that a parent's strong emotions were defused. Professionals were less likely than mediators to believe that parents' emotions were defused, with one or more professionals saying parents became less angry/hostile as a result of mediation in only 15, or 28.3% of, mediations. The difference between the mediators' and professionals' responses could be due to the phrasing of the question. The mediators were asked about all emotions; the professionals simply about anger or hostility. It could also be due to mediators being more aware of the parents' emotions.

The impact of defusing emotions can be seen in the interviews of two parents whose emotions had been calmed in mediation. They were highly positive about their experience and of those involved. One parent said that court was unfair, but that "mediation felt like it was for the kids." It wasn't focused on what he did. A mother's relief and change in perspective was apparent in almost every statement she made about the mediation. It perhaps was best summed up when she said that when she arrived at the mediation, she felt "it was me against them. Now I feel like we're all a team for my child."

Trust

Theoretically, parents who trust those involved with their case are more likely to be cooperative and comply with services. To test whether the parents trusted the professionals, they were asked in the post-mediation survey and in interviews whether they trusted that the professionals wanted what was

¹² Thoennes, Nancy. *Child Protection Mediation: Where We Started*, 35 FAMILY CT. REV. 136 (1997).

¹³ Shack, Jennifer. [CHILD PROTECTION MEDIATION: AN EVALUATION OF THE SERVICES PROVIDED BY COOK COUNTY JUVENILE COURT](#). Resolution Systems Institute, 2010.

best for their child. Interviewed parents were also asked whether they thought that if they did what they were being asked to do, things would change for them. In each case, their responses were positive.

Finding: Almost 3/4 of parents trusted that the professionals wanted what was best for their child

Of the 71 parents who said whether they trusted the professionals wanted to do what was best for their child, 51, or 72% said unequivocally yes, responding with a 4 or 5 (very much) on a 5-point scale. Only three said unequivocally that they did not trust the professionals. However, 17 responded with a 3 (somewhat). This is the most “somewhat” responses out of all of the questions asked of the parents, and many more than for whether others at the table treated them with respect, indicating that a number were more ambivalent about the professionals’ intentions than about how the professionals treated them in the mediation.

72%

of parents trusted
professionals

Parents who were interviewed also had positive responses. They all trusted that the professionals wanted to do what was best for their child, although two hedged their responses with, “I hope so” and “Some definitely want the best. Some don’t.” Others were highly positive, as indicated by one mother’s response, “Yes, oh yeah. No question.” In another indication that they trusted the professionals, all but one also believed that if they did what the professionals were asking of them, things would get better for them. For some, that meant that they would get their children back. But for a couple, it meant getting sober or growing up.

NOTE: The survey question didn’t measure whether their trust in the other people around the table increased due to mediation. The responses of interviewed parents indicate that parents who trusted professionals before mediation had that trust solidified in mediation. This was the case for half of those interviewed. Those who entered mediation not trusting the professionals were as likely to leave mediation with greater trust than to leave still feeling the professionals – or some of them at least – were not trustworthy.

PARTICIPANT EXPERIENCE

Post-mediation surveys were used to explore whether the program was providing a positive experience for parents and professionals when they participate in mediation. This included whether it was providing all participants an experience of procedural justice and a sense of satisfaction. Procedural justice is considered to be one of the most important aspects of a party’s experience with the justice system.¹⁴ Its presence or lack thereof has a profound impact on parties’ satisfaction with the justice system and their perception of its fairness. Research has found that the most important characteristics of procedural justice are voice (the sense that one’s voice has been heard in the process) and respect (the sense that one’s feelings, ideas and positions have been treated with respect in the mediation).¹⁵

Within the child protection context, procedural justice is seen as providing the families with a forum in which they can meet on a level playing field with the professionals involved to discuss their concerns and be heard. When the parties perceive this to happen, they believe that the system has been just, even if they did not obtain the result they wanted. The participants’ responses to these questions

¹⁴ Lind, Alan E. *In the Eye of the Beholder: Tort Litigants’ Evaluations of their Experiences in the Civil Justice System*, LAW & SOCIETY REVIEW, 24: 953-996 (1990).

¹⁵ Id.

demonstrate that they believed they were receiving the benefits that the court and the mediation program intend the process to provide.

NOTE: More in-depth examination of the participants' experience is presented in "[Parent Surveys](#)," "[Parent Interviews](#)" and "[Professionals Surveys](#)" in the "In-Depth Exploration: Perspectives on the Program" section.

Parent Experience

Overall, parents responded very positively to the mediation and overwhelmingly indicated that they were having an experience of procedural justice, meaning that they felt they were able to talk about what was important to them and felt they were understood. They also felt they were treated fairly and with respect by the mediator and, to a slightly lesser extent, by others in the mediation. The fact that the parents felt understood and treated with respect by those involved in their case is important, as these are the people with whom they will have an ongoing relationship throughout the life of their case.

The parents' sense of satisfaction was evident in their survey responses. The vast majority indicated that they were satisfied with the process, outcome and mediator. About three-quarters would recommend mediation to other parents and 83% said it was helpful to them.

Method and data

At the end of each mediation, the parents completed a paper survey, which they then placed into a box outside of the mediation room. Interviews were conducted by the evaluator in-person directly after the mediation.¹⁶ Surveys were completed by 83 of the 139 parents who participated in mediation during the study period; 11 parents were interviewed. More information can be found in the "[Methodology](#)" section.

Parents' satisfaction

On the post-mediation surveys, the parents were asked five questions to assess their satisfaction with their experience:

- How satisfied they were with the process
- How satisfied they were with the outcome
- How satisfied they were with the mediator
- Whether they would recommend mediation to other parents
- Whether mediation was helpful to them

A sense of their satisfaction was also examined in post-mediation interviews.

Finding: Most parents were satisfied

In interviews and on surveys, the vast majority of parents expressed their satisfaction with the mediation. Their comments indicated that they felt supported by the others at the table and confident in the future.

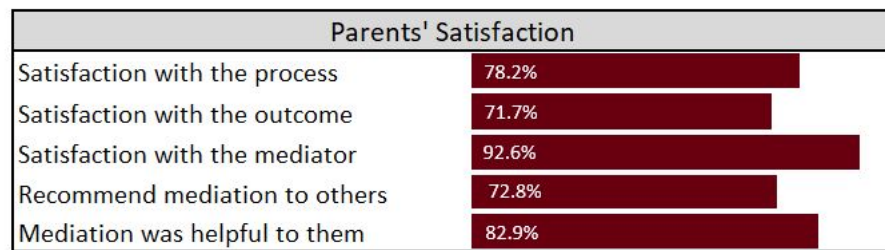
¹⁶ Two interviews were held by phone about twenty minutes after the mediation ended.

In their survey responses, parents were most satisfied with the mediators and least satisfied with the outcome, but were all overwhelmingly positive:

- Almost all, 93%, said they were satisfied or very satisfied with the mediator’s performance. Only one parent was dissatisfied.
- 78% said they were satisfied or very satisfied with the process, while only four of the 78 parents who responded were dissatisfied.
- 73% said they were satisfied or very satisfied with the outcome, while only three of the 83 parents who responded were dissatisfied. Parents were more equivocal about the outcome than the process or mediator, with 23% responding as neutral.
- 73% would also recommend mediation to other parents, and 25% said they might. Only 2 said they would not

Two items are of interest regarding satisfaction with the outcome. First, whether parents were satisfied with the outcome was highly correlated with whether they reached agreement in mediation. This

appears to mean that parents who were stipulating at mediation felt good about doing so. Second, the fact that so many parents were satisfied with the outcome when only



about a quarter ended with a stipulation indicates that they feel they are getting more out of mediation than just agreement. This is reinforced by their responses to the question of whether mediation was helpful to them. In all, 83% said it was helpful, while only three parents said it was not.

These responses were reflected in the interviews, in which nine of 11 parents had a positive response to the mediation. The other two responded neutrally. When asked about their overall impression, parents responded with, “It went very, very well,” or it “hit every point it needed to hit.” Their responses in general demonstrated that their satisfaction with the mediation came from feeling supported, gaining clarity and being able to express themselves.

Parents’ experience of voice

One of the most important benefits mediation should provide in any setting is giving voice to those who may not feel they have it. Giving parents voice in child protection mediation – allowing them to present their point of view, discuss their concerns, and feel that others are listening to them – has been found to involve them more in the case, reducing their feelings of isolation and powerlessness while also increasing their understanding of their case plan and their willingness to follow it.¹⁷ Further, giving parents voice can increase the amount of information available to all involved in the case, thus allowing for better decisions to be made about the families’ needs and the placement of the children.¹⁸ For this reason, one of the program’s goals is to provide voice to the parents.

¹⁷ Thoennes, N. *Mediation and the Dependency Court: The Controversy and Three Courts’ Experiences*, FAMILY AND CONCILIATION COURTS REVIEW 29: 248-249 (July 1991).

¹⁸ Thoennes 1991, 249.

To find out if parents felt that they had voice, the survey asked them three questions:

- Were you able to talk about the issues and concerns that were most important to you?
- Did the mediator understand what was important to you?
- Did the other people at the mediation understand what was important to you?

In interviews, parents were asked whether they felt the others listened to them and how they felt about speaking up for themselves.

Finding: Parents feel that they have voice in the mediation

- **Almost 90% of parents were able to talk about all or most of their concerns and issues.** In all, 64 of 73, or 87%, said they were able to talk about all or most of their issues and concerns, with 48 (66%) saying they were able to talk about all of them. The other nine (12%) said they only were able to talk about some of their issues and concerns. None said they weren't able to talk about any of them.
- **Almost 90% of parents felt the mediator understood them.** The parents overwhelmingly believed the mediator understood what was important to them, with 72 of 82 (87.8%) saying so. Of these, 56 (68.3% of the total) responded with a 5 (very much) on a 5-point scale. Ten (12.2%) said the mediator "somewhat" understood what was important to them, responding with a 3. No one responded with a 1 or 2, indicating that all parents thought the mediator understood at least somewhat what was important to them.
- **The parents were only slightly less confident that the other people at the table understood what was important to them.** Of the 72 parents who responded to this question, 59 (82%) said the other people understood them. Of these, 39 responded with a 5 (very much), and 20 with a 4 on a 5-point scale. Ten (14%) said they believed others "somewhat" (responding with a 3) understood them and three said they did not (responding with a 1 or 2).

In interviews, half of the parents answered very positively when asked if they felt the others at the table listened to them, saying they were listened to "100%" or "fully." Of the other five, four felt that some people at the mediation were listening to them, but others weren't. Only one had a fully negative response, saying "Everything I need to do for them I have to do, but they're not doing what I need them to do."

Parents' Experience of Voice	
Could talk about what was important	89.0%
Mediators understood	87.8%
Others at the mediation understood	81.9%

They all felt "good," "comfortable," or "right" speaking up for themselves. One mother said, "It felt good. It was the first time I got to sit down with everyone and let them know what I felt and what I wanted for my child."

The parents' responses show that most parents are feeling understood by both the mediator and the professionals. Combined with their belief that they were able to talk about what was important to them and that they were listened to by at least some of the people at the table, this indicates that mediation is providing the parents with voice. Most importantly, they feel heard by the professionals, with whom they will need to work over the coming months and, possibly, years.

Fair and respectful treatment

Parents who feel they are being treated fairly and with respect are having an experience of procedural justice, a prime benefit of mediation in any context, and one that has been shown to affect parents' perception of the justice system overall. Questions that explored this on the parent survey are:

- Did the mediator treat you with respect?
- Did everyone at the mediation treat you with respect?
- Did the mediator treat you fairly?

Finding: Almost all parents left mediation feeling they were treated fairly and with respect

- **All parents felt the mediator treated them with respect.** All 81 parents who responded to the question believed that the mediator treated them at least somewhat with respect, with 70 (86%) saying the mediator treated them “very much” with respect (responding with a 5 on a 5-point scale). Another seven (9%) responded with a 4. This means that of the parents who responded, 95% believed the mediator treated them with respect. Just four, or 5%, were less positive, saying the mediator treated them “somewhat” with respect (responding with a 3).
- **Almost all parents felt everyone at the mediation treated them with respect.** The parents were only slightly less likely to say everyone at the mediation treated them with respect than they were to say that the mediator did, with 93% giving a response of 4 or 5 (very much). However, they were more likely to give a rating of 5 for the mediator than for the professionals. Of the 73 who responded, 57 (78%) said the others treated them “very much” with respect (as compared to 86% who said the mediator did), while another 11 (15%) rated this with a 4. Three parents said the professionals treated them “somewhat” (responding with a 3) with respect, while two felt they were not respected by the others at mediation (responding with a 1 or 2).

NOTE: This question asked whether “everyone at the mediation” treated them with respect, so responding “no” may indicate they felt that one person did not treat them with respect, rather than everyone not treating them with respect. One mother who was interviewed supported this possibility. She answered “not at all” to the question because she felt one person at the mediation did not respect her.

- **Almost all parents said the mediator treated them fairly.** All of the parents who responded to this question believed they were at least somewhat treated fairly by the mediator. The vast majority, 66 of 70 (94%), believed the mediator treated them fairly, responding with a 4 or 5 (very much) on a 5-point scale. Of those, 58 (83% of all respondents) believed the mediator treated them “very much” fairly. Four (6%) were equivocal, saying the mediator treated them “somewhat” fairly (responding with a 3). No parents responded with less than a 3.

In interviews, the parents also indicated they felt they were treated respectfully by at least most of the people in the mediation. For one, it was the first time that he felt acknowledged by the professionals, the first time that the AAG looked him in the eye. A mother said she felt good about how the professionals treated her in mediation. They

Parents' Fair and Respectful Treatment	
Mediator treated them with respect	95.1%
Others treated them with respect	93.2%
Mediator treated them fairly	94.3%

treated her with respect and listened to her. Still another said that after talking with everyone at the mediation, she believed they do genuinely care about her and her child.

Professional Experience

Overall, the professionals who responded to the post-mediation survey were positive about their experience. Most felt they had voice, in that they were able to talk about what was important to them and the mediator understood them. All of them felt the mediator treated them fairly and with respect, which most likely led to them all believing the process was fair, as well.

Method and data

After each mediation ended, the professionals who participated, and for whom contact information was available, were sent an email request to complete a survey online. In all, there were 88 responses for the 411 survey requests sent.

Professionals' voice

Just as with parents, it is important for professionals to feel that they have the opportunity to speak and to be heard by others at the table. This not only gives professionals a positive experience in mediation, but can enhance decision-making as more information is exchanged and issues are addressed. Two questions explored whether the professionals felt they had voice:

- Were you able to talk about the issues and concerns that were most important to you?
- Did the mediator understand what was important to you?

Finding: The professionals overwhelmingly felt that mediation was providing them voice

- **Almost all professionals said they were able to talk about all or most of their issues and concerns.** Of the 87

professionals who responded to this question, 67, or 77%, said they were

able to talk about all the issues and concerns that were most important to them. Another 15 (17%) said they were able to talk about most of their issues and concerns. Only five felt they didn't have a sufficient chance to talk, with three saying they were able to talk about some of their issues and two saying none.

- **Almost all professionals felt the mediator understood what was important to them.** The other determinant of whether the professionals had voice was whether they felt that the mediator understood what was important to them. The statistics were similar to those for the previous question. Of the 87 who responded to this question, 82 (94%) responded with a 4 or 5 (very much) on a 5-point scale, indicating that they believed the mediator understood them. The other five answered with a 3 (somewhat).

Professionals' Experience of Voice	
Could talk about what was important	94.2%
Mediators understood	94.2%

Fair and Respectful Treatment

As with voice, providing professionals with a positive experience in mediation requires that they feel treated fairly and with respect and believe that the process was fair.

Finding: All professionals felt they were treated fairly and with respect

The professionals' survey responses indicate that mediation was meeting the goal of fair and respectful treatment of all mediation participants. Every professional who responded felt that the mediator treated them with respect and treated them fairly. They all believed that the process itself was fair, as well. In each case, their responses were very positive, with 81% believing the mediator treated them "very much" with respect (responding with a 5), 78% believing the mediator "very much" treated them fairly, and 70% feeling the process was "very" fair.

Fairness and Respect	
Mediator treated them with respect	100%
Mediator treated them fairly	100%
Mediation process was fair	100%

DISCUSSION

For the court and professionals, stipulation is an important goal for mediation in this program, but it isn't the only goal articulated by judges or professionals. They want mediation to help move the case forward in other ways, including discussion of the legal issues even if stipulation doesn't occur, moving services along for parents and children, improving parents' understanding of their situation and their responsibilities, enhancing professionals' understanding of the case and the families, and enhancing communication among the professionals. They also believe it's important that parents are given the opportunity to feel heard. Evidence shows that almost every mediation is providing at least some of these benefits.

It is significant that the court has other goals than stipulation, as stipulations in mediation have declined over time. Since 2013-2014, stipulations have decreased from 44% to 25% of mediations. This is possibly due to a change in CFSA's practice in 2015, which has led to only the most challenging cases being petitioned, as well as an appellate court ruling that any change in goal must have an evidentiary hearing if the parents requests it. Even though only 25% of mediations resulted in stipulation in 2017, professionals reported progress on the stipulation in an estimated 25% as well, indicating that mediation had a positive effect on stipulation in 50% of all cases.

The percentage of cases being mediated increased slightly from 2013-2014 to 2017. This in itself has a beneficial effect on cases, as parents who participated in mediation in 2013-2014 were twice as likely to stipulate than those who didn't. They also may have been more likely to comply with services. Thus, the act of mediating itself appears to have a significant impact on the case. In addition, it means that a greater percentage of parents are getting the benefits of mediation.

By all indications, mediation is providing the other benefits envisioned by the court. Advances were made in services, visitation and/or placement in at least half of the cases mediated. Most parents and professionals said their understanding of others' perspectives was improved through mediation. Parents overwhelmingly said that they also understood better what they had to do next, meaning that mediation helped them to understand their responsibilities in the case, while a large majority of professionals said mediation helped them to understand the parents' situations.

Just as important is that most parents left mediation having had a chance to talk about their issues and concerns and feel that they were heard. They also left mediation trusting that the professionals wanted

what was best for their child and that, if they did what they were being asked to do, things would be better for them. Both of these are associated with better compliance with services.

On the other hand, other goals for the program are less often achieved. Enhanced communication among professionals was perceived to have occurred in only about half the mediations, while holding professionals accountable was seen in a minority of cases.

Attention should be paid to time to permanency. Despite the benefits of mediation that should be moving the case forward, time to permanency appears to have been unaffected by mediation. It may be useful to examine this relationship between mediation and time to permanency more closely.

The results thus indicate that mediation is achieving the goals the judges and participants want it to achieve, and the percentage of cases that gain the benefits of mediation has increased. Mediation is increasing the likelihood of stipulation and, probably, the likelihood of compliance. It is moving the case forward in a number of other ways. And it is providing the parents and professionals with an opportunity for voice and a feeling of respect.

PROGRAM PROCESS

DISTRICT OF COLUMBIA COURTS
CHILD PROTECTION MEDIATION PROGRAM
EVALUATION SUMMARY • 2018

BACKGROUND:
Program process looks at issues surrounding the steps a case takes to get to the mediation table, from scheduling to the time spent waiting for it to take place.

TIMING OF MEDIATION

MEDIATION MUST TAKE PLACE WITHIN 30 DAYS OF THE INITIAL HEARING, AND PROFESSIONALS PREFER MEDIATION AFTER 15 DAYS.

"I don't think you want to have it too close in time to the hearing with all the shock of the removal and the hearing..."

"Knowing the practice is so stip-focused, 30 days gives you that little bit more time...to do some more research and to investigate..."

"I think the benefit of it being 30 days out is that it keeps everybody focused on the case [unlike] if it were like 45 days out or 60..."

20%

of mediations are scheduled **within 15 days** of initial hearing

15%

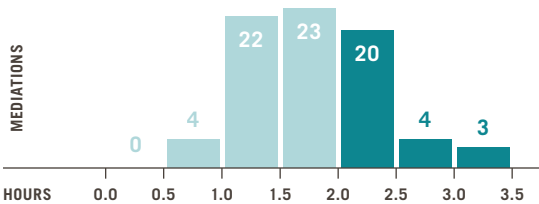
of mediations are scheduled after **the 30-day deadline**

RECOMMENDATION:
Extend the deadline for mediation to 40 days.

TIME SPENT FOR MEDIATION

PARTICIPANTS MUST BLOCK OFF 3 HOURS FOR MEDIATION

Total Time Required for Mediation:
27 of 96 mediations took more than 2 hours



31

Average **minutes spent waiting** for mediation

RECOMMENDATION:
Maintain the 3-hour requirement.

83

Average **minutes in mediation session**

PRE-MEDIATION REPORTS

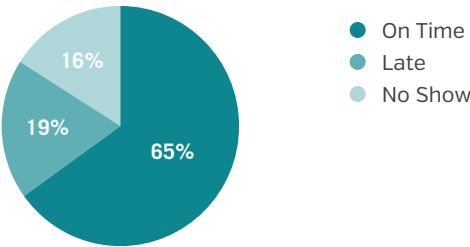
PROFESSIONALS MUST SUBMIT REPORTS 2 DAYS BEFORE MEDIATION.

% of Reports Submitted on Time
(for all mediations not cancelled in advance)



RECOMMENDATION:
Streamline the reporting requirement.

PARENT ATTENDANCE



PROGRAM PROCESS DISCUSSION

The program process is the set of steps that a case takes from the scheduling of mediation to the point at which the mediation ends and any communications back to the court regarding the mediation are completed – excluding what happens at the actual mediation table, which is addressed in the next section. The examination of this process is an important part of this evaluation, as it reveals what is working well and what should be addressed in order to make the process more efficient, effective and better for those involved. This section will examine:

- Scheduling of the mediations
- The timing of mediation
- Pre-mediation reporting
- Time spent waiting for mediation to begin
- Time spent in mediation
- The filing of the stipulation
- Reporting to the court

SUMMARY

This evaluation assessed the process using both quantitative data – data from the cases – and qualitative data, which comes from focus groups and interviews. These sources revealed areas in which everyone agrees that the process works well, along with areas for which those involved would like to see changes. The assessment also uncovered an area of contention, where the qualitative and quantitative information are not in agreement.

There is general agreement that the method for scheduling cases is both efficient and effective, as is the process for filing any stipulation agreed to in mediation. On the other hand, the recognized areas for improvement are pre-mediation report submission, the time spent waiting for mediation to begin and program signage. The timing of mediation also requires attention.

The area of contention is the time allotted for mediation. Many, if not most, professionals in the focus groups complained that mediation took too much of their time and would like to reduce the required time period from three hours to two. The data shows, however, that a significant number of mediations need more than two hours to be completed.

Method and Data

Quantitative data used to assess program's process was collected from 124 cases referred to mediation during the study period, April 1, 2017, to October 31, 2017. Mediators provided the amount of time spent in mediation in their post-mediation surveys. Sign-in sheets were used to capture the arrival time of each participant and the start time for mediation. Qualitative data from participant and mediator post-mediation surveys, observations and interviews was used to provide greater insight about the

findings from the quantitative data. Start times for the mediations were available for 86 cases, while time spent in mediation was available for 76.

PROGRAM PROCESS

A case starts moving through the mediation program process at the initial hearing. This hearing generally takes place within 72 hours of children being brought into shelter care. At the hearing, the attorneys, at times with input from the social worker, will decide on a date and time for the mediation. By rule, they are required to select a time for which all professionals are available for three hours, although in practice some allot only two. They submit their scheduled time to the judge, who then completes and signs the order to mediate. No mention of the mediation is made to the parents during the hearing and mediation is not discussed at all beyond scheduling it. After the hearing, the order is sent to program staff.

According to the court rule, mediation must take place within 30 days of the initial hearing. However, no minimum number of days is specified, which means mediation can take place as early as the next day. The 30-day deadline is meant to ensure that the court's goals for the program are met by bringing everyone together early in the case. The deadline also ensures that mediation takes place before the pre-trial hearing, which must occur within 45 days of the initial hearing for cases in which the child has not been removed from her home and 105 days after the initial hearing for cases in which the child has been removed.

By court order, each person involved in the case must attend mediation. This includes all identified parents and all professionals (attorneys and social workers) involved in the case: the mother's attorney, all father's attorneys,¹⁹ the Assistant Attorney General (AAG), the guardian ad litem (GAL) and the social worker.

The court rule requires that each professional submit a report to mediation program staff two days prior to the mediation. These requirements are also included in the court order to mediate. (The specific reports are discussed below.) The professionals submit their reports by email to all professionals involved in the case as well as the program. The program staff then emails the reports to the mediator. Additionally, the parents' attorneys are supposed to speak with their clients before arriving for mediation.

All parties are supposed to arrive at the scheduled time; however, the court rule states that participants and the mediator must wait 30 minutes for everyone to arrive. As participants arrive, they fill out a sign-in sheet noting their time of arrival and, for professionals, whether they have submitted their report and whether they have allotted three hours for the mediation.

If, during the mediation, it appears that the mediation will conclude with an agreement to stipulate, the Assistant Attorney General calls the judge's clerk to see if the judge will be able to preside over a stipulation hearing just after mediation concludes or to find another judge who will be able to do so. The participants then all walk over to the courthouse together to file the stipulation.

¹⁹ All parents have their own attorney. An attorney is appointed for the father of each child, if there is more than one father for the children in the family. This includes putative fathers (those who have been identified as the father, but have yet to have a DNA test to affirm the relationship) and fathers whose whereabouts are unknown. Each of these attorneys must attend the mediation.

After the mediation, or after the mediation has been cancelled, mediation program staff email calendar coordinators for the Juvenile Neglect Branch to inform the court whether the mediation ended in agreement or not, whether it was rescheduled, or whether it was not held. The clerk then enters an outcome of Full Agreement, Partial Agreement, No Agreement or Not Held into Court View, the court's case management system.

PROCESS ISSUES

Scheduling of the Mediation

The process of scheduling the mediation at the initial hearing is one of the strengths of the program, according to all involved. The ease of comparing schedules across the professionals' calendars eliminates the need to send around multiple emails to set up a time and date for which all are available.

The one complaint comes from the social workers, who say they are either not there during the initial hearing because they have not yet been assigned to the case or they are ignored when they say they aren't able to make a particular time. As the scheduled mediation might interfere with their work, such as supervising a visitation between parents and their children, this is a burden on them. They would like greater input on the scheduling of the mediation.

Parent Education Regarding Mediation

Finding: Parents need better information about mediation

In practice, it appears that the parent's attorneys are the ones who inform parents of what to expect at mediation. The parents who were interviewed almost all indicated it was their attorneys who told them about the mediation. None really knew what it was, however, with the exception of two who had previous experience with the process. They generally said that they were told they were going to have a discussion. This doesn't mean they weren't given more information, but it does demonstrate that they weren't able to absorb what was told to them. Indeed, two parents said mediation was explained to them just after the initial hearing, but that they weren't in the state of mind to take in anything that was being said.

Recommendations: Educate parent's attorneys on how best to prepare their clients for mediation; create educational materials for parents

The above indicates that more can be done to prepare the parents for mediation. One option is to better inform the parent's attorneys about how to best prepare their clients. Indeed, on two occasions, parent's attorneys were observed downplaying mediation and telling their clients, "Don't worry, we'll get out of here quickly." Educational materials, such as a video, brochure or web app should also be created, which would allow parents to take in the information at a time when they are better able to absorb it.

Timing of Mediation

The court asked that the timing of mediation, that is, the amount of time elapsed between the initial hearing and the scheduled mediation, be evaluated. Its reasons for assessing timing were to determine:

- If the deadline for mediation should be extended beyond 30 days from the initial hearing for cases in which the children have been removed from their home
- Whether the timing of mediation had an impact on whether mediation resulted in an agreement
- Whether timing of mediation affected whether the mediation occurred or not

The last two questions pertain to whether there should be a minimum number of days after the initial hearing before which mediation should not occur.

To evaluate these questions, case and program data was examined for both the 2013-2014 and 2017 datasets to see when mediations occurred. Each focus group was also asked to weigh in on the timing of mediation and judges were asked timing questions as well. The results indicate that the timing of mediation does not impact the probability of agreement, but may affect whether a parent appears for mediation. However, information supplied during the focus groups and by judges points to the need to extend the deadline by a few days, as there was general agreement that mediation is most effective in achieving its goals when it takes place 15 days or more after the initial hearing.

Case data on timing

In both 2013-2014 and 2017, the vast majority of mediations took place more than 15 days after the initial hearing. However, a significant number were scheduled to take place within 15 days and after the 30-day deadline, indicating that it is difficult to schedule mediation during the time period that makes mediation most effective, but within the deadline.

2013-2014

Of the 301 cases mediated in 2013-2014, 37 (12.2%) took place within 15 days of the initial hearing, and 264 (87.8%) took place after 15 days or more had elapsed. Eight cases took place within ten days of the initial hearing. On the other end, 51 (16.9%) took place after the 30-day deadline.

The percentage of cases that were scheduled to take place within 15 days and after 30 was very different than the percentage that actually took place during those time periods. This is due to the large number of mediations that were rescheduled. Of all 400 cases referred to mediation, 45 (11.3%) were scheduled to take place within 15 days of the initial hearing, while 12 (3%) were scheduled for within ten days. On the other end, 32 cases (8%) were initially scheduled to take place after the 30-day deadline.

2017

The percentage of cases being mediated within 15 days of the initial hearing rose almost 50% from 2013-2014 to 2017. Of the 96 mediations that were held during the study period in 2017, 17 (17.7%) occurred within 15 days of the initial hearing, with the same number (17) taking place 31 days or more after the initial hearing. Two took place within 10 days.

The difference between the two time periods was even greater when looking at all cases that were scheduled to mediate, not just those that took place. Of the 124 cases referred to mediation during the study period in 2017, 24 (19.4%) were scheduled for fewer than 15 days from the initial hearing, four (3.2%) within 10 days, and 18 (14.5%) were initially scheduled 31 days or more from the initial hearing.

Finding: Timing of mediation does not affect whether the mediation results in a signed stipulation

Analysis of both the 2013-2014 data and the data from the mediations conducted during the study period in 2017 showed that stipulation was not dependent on when mediation took place. Mediation was just as likely to end in stipulation if it occurred within 10 or 15 days of the initial hearing as if it occurred after 15 days had elapsed. (See "[Statistical Analysis](#)" for more information on this.)

Finding: Parents are not less likely to appear for cases scheduled within 15 days

There was no difference in the probability of a parent appearing for mediation in 2013-2014 based on the timing of the mediation. Parents were equally likely to appear if the mediation was scheduled within 15 days as when it was scheduled 15 days or more from the initial hearing.

In 2017, the situation was slightly different. When mediations were scheduled to take place less than 15 days after the initial hearing, parents were not as likely to show up for the mediation. One quarter of mediations scheduled fewer than 15 days out were not held because the parent did not show up as compared to 13% for mediations scheduled 15 days or more after the initial hearing. Although this seems like a large difference, it was not statistically significant, likely due to the small number of mediations for which parents did not show up.

Judge responses regarding timing

Most of the judges did not have an issue with the timing of mediation. Only one judge thought the deadline needed to be changed, whereas three said the current deadline was working well. Beyond that, there was a difference of opinion as to whether mediation should take place as soon as possible or if there should be a delay of a week or more. Two judges did have opinions on the ideal timing, however.

The judge who thought the deadline should be changed thought it should be extended to 45 days for removal cases. She believed it would be more likely that the parents would agree to stipulation if some discovery were done, providing the parents and their attorneys with a better understanding of what the government was planning to prove at trial. If mediation happened before that, it would be easier to be in denial and oppose any agreement. Two other judges placed a lower limit on the timing of mediation. One said it should not take place within a week; the other placed a lower limit of ten days. Three judges thought no time was too soon. As one said, mediation should take place as soon as possible because the sooner they start talking and the sooner the parents understand, the better.

The difference between the judges' opinions may be in their understanding of human nature. Those who wanted to wait said parents needed time to calm down and begin to trust their attorneys. Those who said mediation should occur as soon as possible indicated either that parents needed very little time to calm down or would dig in their heels if the timing was later.

Professionals' perception of timing

The consensus among attorneys appears to be that the sweet-spot for mediation is between two weeks and 30-35 days after the initial hearing. Before that, the attorneys don't have enough time to conduct discovery, gather information, or know whether the parents will be compliant. Parents also may need time to process their situation, which can make them more open and active in the mediation. Further, mediating too early risks having it follow too close on the heels of the family team meeting (FTM), making it somewhat redundant, as much of what is discussed in the FTM is discussed in mediation. Later mediation allows the parties to discuss progress made and any changes that might have occurred since they last met, making the discussion more productive and helpful in moving the case forward.

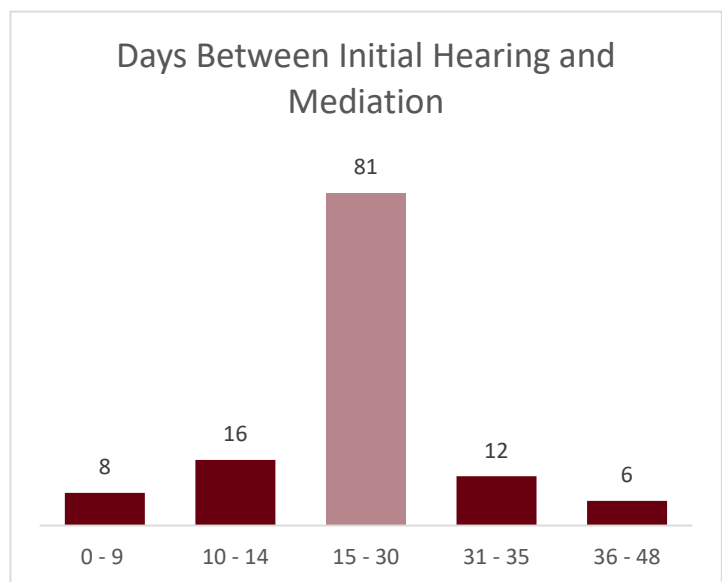
Mediating too late also reduces the benefits of mediation, according to both AAGs and GALs who spoke about the timing of mediation in their focus groups. GALs wanted to keep all those involved accountable and focused on the case early on. Mediation provides an appropriate and convenient way to do so. AAGs gave no definite reason for keeping the deadline close to 30 days, but were clear that they did not want to go much beyond that time period. Some of the goals outlined by attorneys also point to keeping

the mediation close to the current deadline. This includes the gathering of information, getting to know the parties, identifying the other parties' goals and starting points, and otherwise gaining more insight that can help attorneys and social workers make decisions about the parents, children and the case.

Finding: A large number of cases are mediated too early or beyond the deadline

Although only two focus group participants said the deadline for mediation should be extended, others mentioned that the deadline caused them to schedule mediation earlier than they would have wanted. Others said the judge gave them flexibility in scheduling if the lawyers couldn't find a time slot that worked for everyone before the deadline ended. To see whether such flexibility or an increase in the deadline was needed, the mediation data from 2017 was examined to determine how many mediations fell outside the 30-day deadline and how many took place within two weeks of the initial hearing, the time period that was considered to make mediation more redundant and less effective.

In all, 18 of the 124 referrals (14.5%) were scheduled to take place after the deadline, with 11 scheduled for 31-34 days after the initial hearing and the other seven scheduled between 35 and 48 days after the initial hearing. On the other end, 24 (19%) were scheduled between six and 14 days after the initial hearing, with eight (6.5%) scheduled within ten days. This means that between 26 and 42 cases, or 21% to 34%, were scheduled to be mediated either sooner than they should be or after the deadline had elapsed. This is a significant rise from 2013-2014.



Recommendation: Extend the deadline for mediation for removal cases

Both case data and focus group responses point to the need to extend the deadline for mediation. First, 15% of mediations were scheduled after the deadline, indicating that the attorneys could not find an appropriate time before the deadline to mediate. Further another 19% were scheduled within 15 days. This means more than a third of cases were scheduled either after the deadline or at a time that may have led to fewer benefits than mediation could ideally provide.

Given these findings, it would be beneficial to extend the deadline for mediating for another five to ten days for removal cases. This could lead to fewer mediations being scheduled within ten or 15 days of the initial hearing, giving the professionals time to gather information and meet with their clients. It would also help to reduce the number of mediations scheduled soon after the family team meeting, lead to more productive discussions, and enhance accountability as the professionals would have had time to undertake required tasks regarding services and visitation.

Professional Preparation for Mediation

Focus group participants and program staff were in agreement that professionals need to fulfill the court's preparation requirements. The court rule and order to mediate require that all professionals

submit a report in advance of mediation, and that parent's attorneys must meet with their clients (if they have been located) before the scheduled time for mediation.

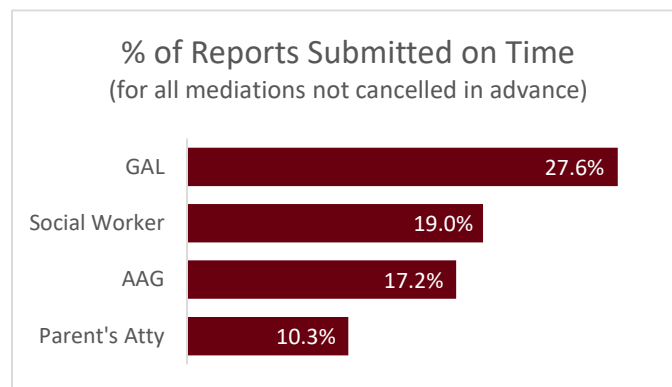
Pre-mediation reports

The court rule requires that each professional involved in the case submit a report two days before the mediation. The reports are included in the order of referral to mediation as well. These reports then are supposed to be distributed to the other professional participants and the mediator. They include:

- Guardian ad Litem Report, which provides a summary of the case and of the child's current status, including placement, visitation, services and recommendations for the child's future.
- Social Worker's Mediation Report, which is a summary of the case to be completed by the investigative social worker. The purpose of the report is to update those involved in the case on the status of the children and the family. It should include information regarding placement, visitation, the child's adjustment, recommended services, the status of court-ordered services and contacts made by CFSA with the child and the family. The Family Team Meeting Report can be substituted for this report.
- Parent's Attorney Mediation Statement Form, which notifies the program of any accommodations that the parents may need, such as a telephone conference, language interpreter, jail contact or a wheelchair-accessible room, as well as any additional information about the case that will help the mediator facilitate the mediation. Parent's attorneys are encouraged to attach a draft proposed case resolution as well.
- Assistant Attorney General Written Case Resolution, which is a draft stipulation, dismissal or other case resolution.

Finding: Pre-mediation reports are being submitted sporadically and late

Although required by rule, attorneys and social workers often do not submit their reports, with submission rates between 20% for parent's attorneys and 62% for AAGs. The social workers and GALs had submission rates of 41% and 58%, respectively. It's possible that some AAGs came to the mediation



with the draft stipulation and did not inform the program, so the actual percentage of stipulations ready at the time of mediation could be higher. Staff reported that parent's attorneys generally only submitted their statement if the parent needed special accommodations, which could account for their low submission rate.

Those reports that were submitted were often submitted later than the two days prior

to mediation that is ordered by the court. When the GALs, parent's attorneys and social workers submitted reports, they were on time slightly over half the time. When AAGs submitted the stipulation, they did so on time only 30% of the time, with 70% of their reports submitted on the day of the mediation. Overall, the professionals submitted their reports on time for 27% or fewer of the mediations.

Finding: Participants and mediators want more information

Each focus group and the program staff talked about issues regarding pre-mediation reporting. Focus group participants had a number of things to say about reports. They complained about other professionals not submitting reports, or about getting reports that were out of date. But, just as often, focus group participants complained about having to complete them. Social workers also noted that there was an ongoing dispute as to whether the investigating social worker or the ongoing social worker should be the one to write the required report, particularly if the mediation happened significantly after the family team meeting.

Some of the mediators said they lacked information necessary for them to effectively and efficiently mediate cases, which they could get from reports, if the reports had been submitted. For the mediators, the problem was that they would bring up issues that had already been discussed or were best left untouched. Some attorneys complained about mediators doing just this, indicating that both the mediators and the attorneys were aware that mediation could be more efficient and effective, with mediators indicating that the cause was sometimes their lack of information.

For the mediators, the most informative report was the one submitted by the GALs. GALs, on the other hand were most interested in an updated social worker report, along with the stipulation. Parent's attorneys wanted a stipulation, while AAGs wanted to know more about what the parent's attorneys wanted.

Although the focus group participants complained that professionals were not submitting reports, or were submitting them late, they also noted how little time they had and that the reports were burdensome. This points to the need for a more streamlined process for submitting the necessary information. One focus group recommendation is to use an email chain to exchange pre-mediation information. Program staff have seen the benefit of streamlining the reports and are looking into creating an online form for attorneys and social workers to complete before mediation. This would not take the place of the written case resolution that the AAGs would still need to distribute before the mediation.

Recommendation: Streamline the pre-mediation reporting process

The combination of reports not being completed, the complaints that these reports are onerous, and the acknowledgement by both professionals and mediators that the reports provide essential information all make it necessary to create a more streamlined process for completing them. The options to consider are:

- An online form. The staff can send a link to the attorneys and social workers and have them complete the form no later than two days before the mediation. The staff can then download and send the responses to each participant and the mediator.
- An email chain. Staff send out an email to all participants asking them to provide particular information and reply to all the participants. The final chain can be sent to the mediator.
- A fillable PDF that can be emailed to the program and all professionals involved in the case.
- A platform on which all professionals can complete their reports and see what others have reported.

One thing that needs to be addressed is that the mediation staff don't always know who the assigned social worker will be. Nonetheless, the social worker will need to supply updated information about the

status of the children and the parents. The mediation staff will need to work with CFSA and the Office of the Attorney General to determine how best to ensure that the appropriate social workers are notified to complete the information and staff can confirm that they have done so.

Parent's attorneys meeting with parents

Parent's attorneys are required to meet with their clients before the date of mediation. In practice, this has often meant that they are meeting when they arrive for the mediation. This leads to mediation starting late, as seen in the data regarding the cause for delays. For 11 mediations (11%), mediation was delayed because the parent's attorney was talking with their client.

Recommendation: Require the parents and their attorneys to arrive 30 minutes before the scheduled mediation time

Requiring the parents and their attorneys to arrive early will reduce the wait time for mediation to start, and the overall time spent for mediation. (This will be discussed further below.)

Cancellations and No-Shows

Ideally, all cases that are referred to mediation are mediated. This would mean that as many cases as possible would enjoy the benefits of mediation. It also would mean that participants wouldn't arrive for mediation only to have a parent not show up, something that was a significant source of frustration for focus group participants.

The data show that 78% of cases referred to mediation were mediated. Of those that were not mediated, more than half were not held because a parent did not appear. The others were cancelled for a variety of reasons.

Finding: Parents did not show up for 16.5% of mediations that hadn't cancelled beforehand

The parents necessary to the mediation showed up for 83.5% of mediations that weren't cancelled, with 16.5% not showing up. While this is a relatively good participation rate, parent non-appearance is a source of frustration for the professionals and mediators. The reason parents didn't show up for mediation is not known. However, the proportion of no-shows has risen from 11.7% since 2013-2014.

The focus group participants appeared to be resigned to parent no-shows, and there is no clear answer as to how to increase parent participation. One possible way to do so comes from a comment made by a parent's attorney during a focus group. He said: "It has been easier for me to convince my clients to come to mediation than to come to court. Because I just say, hey, look, this is for you. This is your chance. Come and talk. And they come and they talk." It may be that the parent's attorneys' framing of mediation to their clients can affect the probability that they will come to the mediation. As discussed above, it may also be possible that if the parents have more information about the purpose of mediation, they may be more likely to show up.

Finding: There were few cancellations

Only eight mediations were cancelled during the 2017 study period. This is a dramatic decline from 2013-2014, when 14% were cancelled prior to mediation. The main reason for this decline is the drop in the number of mediations cancelled due to pre-mediation stipulations. The small number of cancellations means that this is not a cause for concern and does not need to be addressed.

The table below enumerates the reason for cancellations.

Reason for Cancellation	Number
Parents not available	4
Pre-mediation stipulation	2
Parent entering family treatment court	1
Unknown	1

Finding: Cancellations aren't always communicated

Both social workers and program staff complained that attorneys were not communicating whether a mediation was cancelled. Given the small number of cancellations overall, this is not a significant problem. However, it may be helpful to develop a method or protocol for attorneys to easily communicate cancellations to the program and everyone involved in the case.

Wait Time Before Mediation Starts

One of the more significant issues for focus group participants was the amount of time spent waiting for the mediation to begin. This, in fact, was the most common complaint, brought up or actively agreed to by 26 of the 46 focus group participants, representing all five focus groups. As noted above, the court rule requires that all participants wait at least 30 minutes for everyone to appear before the mediation can be cancelled. This wait time is rolled into the time spent in mediation to make up the 3-hour block of time participants and mediators must keep free for the mediation. Therefore, how long participants wait is an important question for this evaluation.

Method regarding delays

To determine how long mediation participants wait for the mediation to begin, the evaluator asked program staff to track start times for each mediation held during the 2017 study period. The scheduled time was then subtracted from the start time to yield the amount of time spent waiting. In addition, program staff provided the reason for any delay in starting the mediation. This was done in order to determine whether and how to address wait times in the future. Finally, arrival times were collected for all participants from the sign-in sheets as a way to determine how much of any delay was due to parents' late arrival, as the focus group participants believed the primary reason for the delayed start of mediation was parents arriving late.

Finding: Mediation starts on average within 31 minutes of the scheduled time

Of the 96 mediations conducted, start times were provided for 86. The program considers any mediation that begins within 15 minutes of the scheduled start time to have started on time. Using this criterion, 16, or 19%, of the 86 mediations started on time; 81% started late.

The court rule states that the participants must wait 30 minutes before cancelling the mediation. However, in practice, participants often waited longer. In all, 51, or 59% of the mediations for which start times were provided, began within 30 minutes of the scheduled time. The other 41% started between 31 minutes and 1 hour and 36 minutes of the scheduled time. Overall, the average wait time was 31 minutes.

19%
Started on time

59%
Started within
30 minutes

Only three focus group participants provided a desired maximum wait time, with one saying 15 minutes and two saying the wait should be no longer than 30 minutes.

Finding: Most delays were caused by participant late arrival

Participants arriving late was the main reason for mediation being delayed. Someone being late delayed mediation in 52 of the 70 mediations (74%) that did not start on time. No other reason comes close, with the second most common reason—a parent and her attorney needing to talk—delaying mediation only six times. Other reasons for delay were discussion of stipulation (2 mediations), domestic violence screening (2), a mother’s refusal to participate (1), and the case manager taking care of logistics (1). The reason for delay was unknown for six cases.

Reasons for Delay	
Reason	#
Professional Late	29
Parent Late	22
Attorney/Client Talk	6
Discuss Stipulation	2
DV Screening	2

There were a few cases in which there was more than one cause for delay. These tended to be times when the parent or parent’s attorney was late; and they needed to talk before the mediation, or when the parent’s attorney and AAG needed to discuss stipulation. This occurred in at least five cases. These were counted as delays caused by a participant’s late arrival because that was the primary cause.

Finding: Attorneys and social workers were slightly more likely to be late than parents

Although much of the focus of those concerned about the wait time was parents being late, professionals were slightly more likely to be late than parents. Attorneys and social workers were late for 29 mediations. Parents were late for 22. The other seven late arrivals were mediators (2 mediations), a support person for the parent (1), a combination of parent and attorney (1), and an unknown person (1).

When considering only those mediations for which the sole reason for the delay was a late participant, the average wait time was 36 minutes. The range was from 20 minutes to 1:36. When parents were late, they arrived on average 40 minutes after the scheduled time. This is only slightly longer than professionals, who, when late, delayed mediation on average 32 minutes.

Although parents were less often late than professionals, if the 19 mediations for which the parent did not show up (which cause other participants to wait at least 30 minutes) are included, parents are much more likely to cause other participants to wait than professionals. Further, participants had to wait longer for parents than for professionals. This could be the reason the professionals and mediators had the impression that parents were late more often than professionals.

Who Was Late?	
Role	#
Parent	22
Parent’s attorney	11
GAL	8
AAG	6
Social Worker	4

Recommendation: Maintain the flexibility of the 30-minute rule

People are late, and it might be frustrating, but given the benefits mediation provides,²⁰ it is better to continue to provide parents the opportunity to mediate, even if they are late. Further, professionals are more likely to be late than parents, and parents should not lose the benefits of mediation due to a delayed professional. The greater issue may be waiting for a parent who doesn’t show up.

²⁰ See “[Program Performance](#)” for data on the benefits of mediation.

Recommendation: Require that parent’s attorneys and parents meet 30 minutes before the mediation is scheduled

Parents were late for almost a quarter of mediations conducted during the study period; a further six mediations were delayed because the parent’s attorney and parents had to talk. Additionally, when parents are late, the mediation can be further delayed if the late parents also need to talk with their attorney before entering the mediation. To try to limit the delays caused by parents, it is recommended that the court require parent’s attorneys and parents to arrive 30 minutes before the scheduled mediation in order to meet and discuss mediation and the stipulation.

Recommendation: Make it easier to find the mediation program through better signage

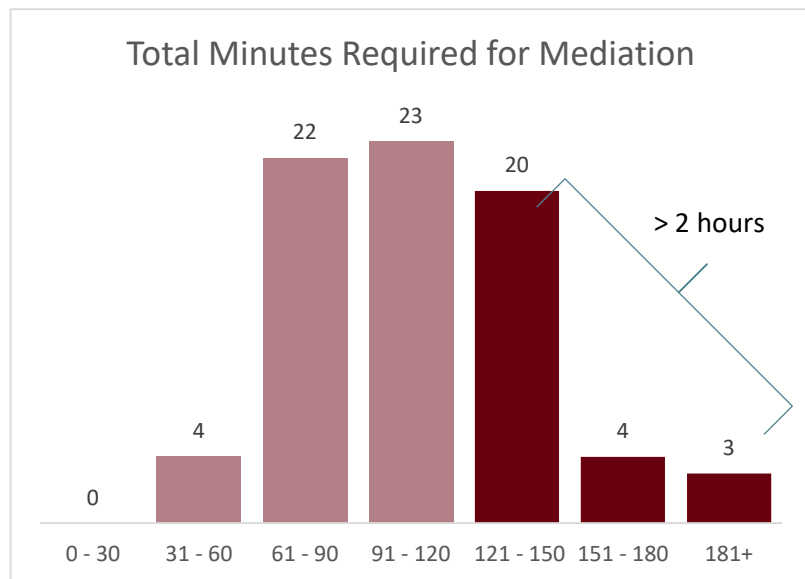
One reason parents may be arriving late is that the building that houses the mediation program is poorly marked and confusing to enter. The door is wooden, with no window, and not marked in any way. Further, it is around a corner where the street is blocked off due to construction. Indeed, during one observed mediation, the father’s attorney left to go get the father, who had called him to say he was outside the building but couldn’t figure out where to go. Every focus group resoundingly called for better signage for the building so that parents aren’t confused about where the entrance is and may be delayed less often.

Time Required for Mediation

Another major complaint of focus group participants was the length of time mediation took. This was brought up by 20 participants from all groups. These 20 most often talked about the time spent in mediation as being too long, though some also talked about the amount of time blocked off for mediation as being difficult. Those wanted the time requirement for mediation to be reduced from three hours to two. Others, however, noted that some mediations do require more time, particularly since most don't start on time.

Because this was a major concern for focus group participants, mediation data was examined for both how long mediation sessions

took and the overall amount of time that was needed for mediation when the wait time was included. That is, the amount of time mediation required from the time it was scheduled to start until the mediation session ended.



Finding: 1/3 of mediations required more than 2 hours of participants’ time

Any consideration for changing the rules for how much time should be blocked off for mediation should be based on the total amount of time mediation takes, from the scheduled start time to the end of

mediation. Analysis of the mediations conducted during the study period in 2017 indicates that mediation often requires more than two hours.

The time spent in the mediation session averaged one hour and 25 minutes. The overall time required for mediation, including wait time, averaged one hour and 53 minutes for the 76 cases for which data was available. More importantly, 27 mediations, or 36%, took more than two hours from the scheduled time to the end of the mediation session. And of these 27 mediations, 15 required more than one hour and 45 minutes in the mediation session, meaning that if the mediations had started on time – within 15 minutes of the scheduled time – they would still have taken more than two hours to complete. Thus, for a significant number of mediations, the discussion itself necessitated as much time as would be blocked off if the requirement were reduced to two hours.

Recommendation: Do not reduce the amount of time required for mediation

A significant number of mediations take longer than two hours. Shortening the timeframe would unnecessarily limit the time spent discussing issues and moving the case forward for those cases that require more time and would likely reduce the effectiveness of mediation.

Filing of Stipulation

There is no indication that the filing of the stipulation is a significant problem. Focus group participants all said that the process of filing the stipulation was generally smooth, and one remarked that this was a strength of the program. The focus group participants indicated it was a definite and significant benefit to file the stipulation directly after the mediation. The consensus was that for most cases, the stipulation is filed on the day of mediation.

According to a few focus group participants and two judges, there are rare times when this process does go awry. The focus group participants said from time to time there was a scramble to find a judge who could hold the stipulation hearing. Nevertheless, they said the judges were very accommodating. The judge said that there were rare times when the mediation ended late and the parents had to leave to, for example, pick their children up at school. This meant that the stipulation could not be filed that day. There was general agreement that if the parents are not accompanied from mediation to the courtroom, the parents might drift off or change their mind. Therefore, the ability to move together to the courtroom to file the stipulation right after mediation is essential.

Examination of the dates of mediation and the filing of the stipulation showed that there were only three cases for which the mediator and professionals all stated that agreement was reached in mediation, but the stipulation was not filed until a later date. In one case, the gap between mediation and the filing of the stipulation was two weeks. This supports the perception among judges and professionals that filing of the stipulation almost always occurs on the same day as the mediation.

Reporting to the Court

Most of the judges are satisfied with the manner in which mediations are reported upon. They don't know what has happened and are fine not knowing. For one judge, not knowing was a benefit. If too much is known, it could bias the judge. There were, however, two of the judges who would have liked to know if the mediation actually took place or that a stipulation had been filed so that they could change their calendar accordingly. Additionally, the program staff want to have some ability to hold professionals accountable for not complying with the court order, including report submission.

This evaluation does not have a specific recommendation for whether any changes should be made to post-mediation reporting.

DISCUSSION

The program process that is currently in place is in general working well. The two hallmarks of the process's efficiency and effectiveness are the scheduling of the mediation and the filing of the stipulation. Both were praised by focus group participants when asked what about the program worked well. The communication of the scheduled mediations from the court to the program also works well.

There are, however, three main issues that need to be addressed: the timing of the mediation, professional preparation and the time spent waiting for mediation to begin. More than a third of mediations occur too soon after the initial hearing or after the current 30-day deadline. Therefore, the deadline for mediation should be extended so that removal cases are able to mediate up to 40 days after the initial hearing, with additional flexibility allowed by the court, if needed. This should help to reduce the number of mediations that occur too soon or just after the family team meeting.

Professionals and mediators agree that professional preparation is an issue. Professionals are only sporadically submitting the required pre-mediation reports on time, and parent's attorneys sometimes meet with their clients at the mediation, not before. These were both sources of frustration for focus group participants. The pre-mediation reports provide information that makes the mediation discussion more efficient and effective. To improve on-time report submission, the reports should be streamlined so that they are easier to submit. To reduce the impact of parent's attorneys meeting with their clients at the mediation, particularly when either they or their clients are late, parents and their attorneys should be required to arrive 30 minutes before the mediation's scheduled start.

Another large source of frustration for focus group participants is the time they spend waiting for the mediation to begin. The primary cause for the wait is the late arrival of participants – both parents and professionals, with professionals more likely to be late than parents. Parental (and parent's attorney) tardiness can be addressed through the requirement that the parents and their attorneys arrive 30 minutes before the mediation starts, as recommended above.

Another area of concern for focus group participants is the amount of time spent in mediation. Many of the professionals and at least one mediator thought it would be good to decrease the amount of time they needed to block off for mediation, since mediation didn't generally take the full three hours. The data show, however, that a significant proportion of mediations take more than two hours from the scheduled start time until the mediation concludes. Reducing the time allotted for mediation would reduce its effectiveness by limiting the amount of time available for discussing the case, giving parents the opportunity to have voice and helping the parents to fully understand their situation and the expectations for them. Therefore, it is not recommended that the time requirement for mediation be reduced.

AT THE MEDIATION TABLE



DISTRICT OF COLUMBIA COURTS
CHILD PROTECTION MEDIATION PROGRAM
EVALUATION SUMMARY • 2018

PROCESS:

The mediation process includes the introduction, agenda setting, discussion and wrap up. Separate meetings can be called by the mediator to discuss topics with a subset of the participants.

INTRODUCTION AND AGENDA SETTING

In the introduction, the mediator explains the process, including that it is voluntary and confidential, and the participants introduce themselves. In the next step, the mediator asks each participant what they want to talk about during the mediation, thus setting the agenda. All mediators followed the protocol for the introduction. All but one set the agenda. Fewer than half of the mediators wrote the agenda on a flipchart to provide a visual cue for the participants.

RECOMMENDATION:

Encourage the mediators to write the agenda on a flipchart.

MEDIATION DISCUSSION

During the discussion, each item on the agenda is covered. The mediator facilitates discussion by asking probing questions, making clarifying statements, ensuring that the parent is understanding what is being told them, acknowledging emotions, reframing and softening the participants' positions, and summarizing discussions.

Professionals most often pointed to mediators as what made mediation effective:

"I think the mediator did a great job of getting to the heart of the issues and of allowing the birth mother to feel she had an opportunity to have her say."

"The mediator was able to redirect focus to the topic when needed."

"The mediator was EXTREMELY good. One of the best mediators I have ever had. This was a very tough physical abuse case in which both parents are determined to take it to trial, but mediation still managed to be very helpful."

Mediators want guidance, professionals agree

Professionals complain that the mediators don't facilitate the discussion regarding stipulation and go over old ground. Mediators want more guidance on this.

Participants are most common barrier to effective mediation

The most commonly cited reasons for mediation not being effective were the unwillingness or inability to discuss stipulation, anger or hostility, and unwillingness to move off one's position.

Mediation is most effective when professionals work with the mediator

The majority of mediators who mentioned what made the mediation effective pointed to the participants. They praised the professionals' openness and willingness to collaborate, mentioning, as examples, their "eagerness to work together" and that "everyone worked sincerely and cooperatively to support the process and the family."

RECOMMENDATION:

Provide mediators and professionals with more learning opportunities.

END OF MEDIATION

Only half of the mediators summarized the discussion and next steps. Nothing is written down to hand to the participants. Thus, the participants often leave without having heard or read what everyone has agreed to do.

RECOMMENDATION:

Create a form to write up next steps for participants to take with them.

AT THE MEDIATION TABLE

This section examines what happens during the mediation itself, rather than the program more generally. The purpose is to be sure the program's protocols for mediation are being followed, to determine if mediators add value to the case and the participants, and to see if there are issues arising from the mediations that need to be addressed. The data comes from observations, focus groups and surveys.

SUMMARY

Mediation is effective in most cases, according to observations and survey responses, with mediators being instrumental in promoting the court's goals for the mediation program, while also helping the professionals to achieve their goals. Through their active facilitation, mediators ensured all participants had voice, most importantly the parents. They helped the parents to understand what would be happening going forward, as well as what they were expected to do. They supported the professionals by reinforcing their point of view to the parents and reframing what they in a way that parents could more easily understand and accept.

In surveys, professionals most often praised the mediators when mediation was effective. They rarely pointed to them when commenting on what could have been improved. On the other hand, those AAGs who participated in focus groups complained about mediators not facilitating the discussion of the stipulation, a complaint that was partially confirmed in the observed mediations. Observations did uncover a need for more mediators to summarize what was discussed and the actions that were agreed to be taken.

When mediations went well, the mediators most often said it was due to the professionals' active and positive engagement with the mediation. During observed mediations, it was noted that the most effective mediations were those in which the professionals were actively engaged and supportive of the parents. In interviews, parents were most positive after these types of mediations, as well. On the other hand, in surveys and focus groups, professionals noted that professionals bear responsibility when the mediation is not effective. Survey comments often pointed to the professionals' lack of preparation when asked what could be improved. Focus group participants also noted the professionals' lack of preparation and intransigence during the mediation as problems needing to be addressed. During observations, these issues also appeared, along with apathetic participation by some professionals.

Method and Data

Information about what happens in mediation comes from three sources: post-mediation surveys completed by mediators and professionals, focus groups, and observations of mediations. The evaluator took extensive notes during the mediations, then coded them afterward in terms of what the mediators did during the mediation and what the participants gained.

The evaluator observed 18 mediations conducted by 11 different mediators: both staff mediators, six volunteers and a trained case manager who fills in when a mediator cancels. The mediators completed surveys for 83 mediations, while 88 professionals completed surveys for 59 mediations. Five focus groups were held, which consisted of 37 professionals and nine mediators as participants.

For more information, see the “[Methodology](#)” section.

THE MEDIATION PROCESS

Pre-trial mediation, as practiced in the program, is a flexible process that mediators may alter in order to best fit the situation. It can also be a very complex process. As both mothers and fathers attend, mediation can involve issues similar to those found in family cases. Because one of the goals of mediation is to resolve the legal issues in the case, these are addressed as well. What follows is the most common manner in which mediation progressed in the mediations observed by the evaluator.

The first step for every mediation is to determine whether domestic violence might be an issue. If the case manager thinks this is the case, the mediator conducts a screening. Each parent is brought into the mediation room separately to be asked a series of questions to determine whether safety is a concern. Afterward, if the mediator believes it isn’t safe to proceed with the parents in the same room, the father and his attorney are asked to participate in the mediation by phone from another room.²¹

Before mediation starts, the mediator places a name tent for each participant in front of the seat the mediator wants each participant to occupy. Generally, the mother sits directly on the mediator’s left and her attorney sits next to her. Fathers and their attorneys sit on the same side as the mother and her attorney, as seen in the graphic below. The Assistant Attorney General (AAG) sits directly on the mediator’s right, with the social worker next. They are followed by the guardian ad litem (GAL).

The Typical Mediation Seating Arrangement



²¹ In one mediation, the mother didn’t want to have the father talk at all. In that instance, the father and his attorney participated by phone, with the father’s attorney being the only one who talked.

In general, the mediation is attended by the child's mother and her attorney, the father's attorney, the AAG, the social worker for the case and the GAL. Most are also attended by the child's father. If more than one child is involved, more than one father might attend along with their attorneys, or by the father's attorney alone if the father is unavailable or has not been found. Other participants might be the education attorney and support people for the mother and/or father(s). There may also be multiple social workers. The child never attends.

The Typical Mediation Process

Mediation always has four components: introduction, agenda setting, facilitated discussion and wrap up. In the introduction, the mediator explains the mediation process and passes around the agreement to mediate for everyone to sign. The explanation of the process should include the following:

- Everything said in mediation is confidential, with certain exceptions
- Mediation is voluntary, and the participants are free to leave at any time
- The mediator is to remain neutral

Mediators almost always add their own ideas to this introduction. These may include the purpose of mediation, ground rules or an offer to the participants to ask for a break at any time. During this introductory phase, the mediator also asks everyone to introduce themselves and what their role is in the case.

The next step is agenda setting, in which the mediator creates an agenda by asking the participants to each individually say what they want to discuss during the mediation. The mediator usually starts with the mother and then works clockwise around the table, ending with the AAG. Some mediators write the agenda on a flipchart for everyone to follow.

The agenda generally includes the status of the child, services for both parents and children, visitation, the expectations that the government has for the parents, and stipulation. If there is a pending or potential criminal case involved, the status of that case may also be put on the agenda, while the mother's or father's attorney may state that stipulation is off the table.

Once the agenda is set, the discussion starts. Often it starts with the mediator asking for an update on the child from the social worker and GAL. The reason for doing so is to give parents the opportunity to hear that their child is doing well, information that the parents often appreciate hearing. After that, the mediator guides the discussion through the agenda, usually, but not always, starting with what the mother and her attorney want to discuss.

If at any time, it appears that a separate meeting, called a caucus, is needed, the mediator might ask some of the participants to leave the room so that a smaller group can discuss matters. Reasons for doing so include giving the parent's attorneys the opportunity to talk with their clients separately about the stipulation, providing a space for parents to calm their emotions and separating parents in order to talk with one about issues specific to one of them.

After all the agenda items have been discussed, the mediator wraps up the mediation. If the government and parent come to an agreement on the stipulation, the parent signs it. Any other items to which the participants agree, such as a social worker looking into a particular service, or a parent agreeing to release medical or mental health records, are not written into an agreement. At this time,

the participants are asked to complete a four-question survey. (The survey process differed during the study period. See “[Parent Surveys](#)” and “[Professional Surveys](#)” for more information.)

WHAT HAPPENS AT THE MEDIATION TABLE

Introduction of the Process

Finding: Mediators are following protocol for the introduction of mediation

The 11 observed mediators each had their own way of introducing mediation. Of greatest importance, all of them mentioned that mediation was confidential, with exceptions, and that it was voluntary. However, a couple of the mediators did not explain what it meant that mediation was voluntary. They just said it was. Another did not explain what it meant that mediation was confidential. When passing out the agreement to mediate, they ranged from just sending it around without explanation to reading it out loud, with most briefly explaining what the agreement says.

Almost all asked about whether there were any time constraints on the mediation. This allowed them to either change the mediation process, such as talking about stipulation first when an AAG had to leave for a hearing soon after the mediation started, or to keep close track of the time as the mediation progressed.

Beyond that, the mediators each emphasized different aspects of their role and the mediation. Most mentioned either their neutrality, the neutrality of the process or both. A few mentioned the possibility of caucus, but most did not. A few mentioned ground rules, such as being respectful or talking one at a time, but most did not. About half talked about what the goal of mediation was, although the goal varied between being an opportunity to focus on the children, being an opportunity to talk or have open communication, and a forum for resolving issues. The best introductions were stated at the level that all could easily understand.

This essential part of mediation was a point of contention for some of the focus group participants, who thought it contributed to mediation taking too long. Since they have participated in multiple – sometimes dozens – of mediations in the past, they didn’t feel they needed to hear the introduction. They would prefer that this be done with the parents and their attorneys alone before the arrival of the GALs and AAGs.

Recommendation: Keep requiring that all participants participate in the introductory phase of mediation

Mediation is a process in which all participants are supposed to be equal partners. Treating the parents differently changes the dynamic. Further, in the observed mediations, the introduction took no longer than five minutes. Thus, the benefit gained by changing the format of the introduction would be minimal.

Agenda Setting

Finding: Mediators are following protocol regarding agenda setting, but aren’t consistently using flipcharts

As noted above, mediators in this program are supposed to ask the participants to set the agenda for the mediation. In the observed mediations, this was done by all but one mediator. On the other hand, only seven of them provided visual feedback and cues by writing the agenda on a flipchart. Although using a flipchart is not necessary, and professionals had a difference of opinion in focus groups about

whether this was helpful, it can help to ensure that every item is discussed, particularly in complex cases. It also provides a visual reminder that issues important to particular parties will be discussed and is a cue about the progress of the mediation as the mediator checks off what items have been completed.

Among the focus group participants, there was a difference of opinion about whether agenda setting was a waste of time or was helpful. The only immediate feedback, however, came from a professional who stated in his or her post-mediation survey that mediation could have been improved if the mediator had set the agenda by going around the table asking each person to state what they wanted to talk about.

Recommendation: Keep the procedure for setting the agenda and encourage mediators to use flipcharts as a visual cue

Facilitated Discussion among all Participants

During the observed mediations, all but one of the mediators actively facilitated discussions, using their neutral role to develop rapport with parents and professionals. They supported the goals of the professionals when they considered them to be helpful to the parent by asking probing questions of the parents, reinforcing what the professionals were saying or restating it in a way that made it more acceptable to the parents. They asked clarifying questions, helping the parents understand and the professionals to provide more detail that ensured that everyone was on the same page. Most summarized what was said as they moved on to a new agenda item, helping the participants to see the progress and note agreements on what would be done in the case moving forward.

In a couple of mediations, however, the mediators were more passive. They didn't intervene in contentious conversations. They didn't summarize. The mediation continued without much facilitation by the mediator.

The mediators were both praised and criticized by the professionals. Most of those who participated in focus groups recognized the benefits mediators provided; survey respondents most often pointed to them as the reason for mediation being effective. On the other hand, focus group participants also had a number of complaints about how mediators facilitated the discussion.

Mediators, for their part, praised professionals and parents who engaged in the discussion and were willing to be collaborative. They also noted the times when mediation participants hampered the discussion through lack of engagement, intransigence or other poor behavior.

Finding: Mediators added value to the discussion through active facilitation

In most of the observed mediations, mediators helped to improve understanding, calm participants, reduce conflict and quicken the pace of communication. They did this by asking questions of participants to help them to think about things differently or to ensure that each person knew who was doing what going forward, by summarizing what had been said, by acknowledging emotions, and by reframing strong statements.

Mediators often supported the professionals if they believed that the parent needed to hear what was being said. For example, in a case in which the guardian of a 16 year-old had decided she wanted to terminate guardianship, but then changed her mind, the professionals spent some time encouraging the

Conflict Resolution

It was a productive mediation, with a motivated mom thanking the professionals for helping her, the professionals recognizing her motivation. Then Dad arrived. He hadn't been to any previous hearings, so this is the first time that any of the professionals had met him. They had been trying to contact him, but didn't have the right information. Dad came in with a lot of anger. His child had been taken without his knowing. He knew what happened in foster care and wanted to protect his child.

When Dad asked the GAL a question about his child that the GAL couldn't answer, he became irate. His aggressive behavior riled the GAL and the social worker assigned to the case. The argument became heated, with neither side able to acknowledge the other. At this point, the mediator jumped in to reframe the argument. This opened up some space for everyone to calm down, allowing the social worker to approach Dad in a different way, saying that yes, foster can be bad, and "that's why we all need to work hard to get [the child] back home."

This opening changed the tone of the mediation. Dad became willing to hear what the attorneys and social worker were saying. At the end, the social worker and Dad were having a calm, serious conversation that showed that they had bridged a gap and were forging a relationship.

guardian to agree to particular services for the child. The guardian was adamantly against those services. The mediator stepped in to ask the guardian to think about what would happen if the child went back to her and the same issues started up again. This prompted the guardian to talk about how the child's adult brother was helping him, which was new information for the professionals and started them thinking differently about the situation. At other times, mediators asked follow up questions such as, "What will it take for this to happen?" or "Who is responsible for that?" when the group was discussing, for example, possible new services for the child. This helped the parents understand what would happen and ensured that everyone knew who would be taking the necessary action steps to move services forward.

In all, of the 18 observations, mediator guidance of the discussion helped to facilitate parent understanding at least once in all but one mediation, and helped parents have voice in 15. The mediators helped with the exchange of information in ten mediations. In 12, mediation helped professionals to understand the family's situation better, from how a child was adjusting to his new school to what their new housing situation was. Mediators provided support to the professionals' attempts to work with the families in six mediations.

Finding: Mediations were not always effective

Not all mediations were effective. On the flip side of the mediations that led to breakthroughs were three mediations that were either not helpful or were even hindered by the mediator's actions. In one mediation, conversation continued its course without mediator facilitation. The mediator simply brought up the next item for discussion as the last one wrapped up. This all took place while most of the professionals paid no attention to the mediation, focusing instead on their phones. Meanwhile, the mother's attorney and the GAL had a contentious argument in which the mediator did not intervene.

Another mediation became chaotic as the mentally ill mother took all of the mediator's attention and the social worker held a separate conversation with the GAL. In another, the mediator asked irrelevant questions and got so far into the weeds that he confused the conversation, and at one time asked a question that, if responded to, could have left the mom in physical danger.

How professionals view the discussions

Finding: Professionals recognized the mediator's role in making mediation effective

Participating professionals saw the mediator's important role in facilitating the mediation. When professionals commented on what made mediation effective in their survey responses, they most often talked about what the mediator did. These included redirecting the parent to focus on the topic, calming the parent's emotions, getting to "the heart of the issues," and letting the parents have voice. They also said that all parties being given the opportunity to talk was helpful. A GAL pulled a few of these ideas together, saying, "The mediator was very good. She helped defuse strong emotions by validating the parents' concerns, being sure to repeat herself and to repeat back to others to make sure we all understood, and handled the parents' wanting to leave very well."

Finding: Professionals are concerned about mediators going over old ground and missing cues

Focus group participants, while generally supportive of mediator skills, had a number of concrete complaints about how the mediators facilitated – or didn't facilitate – the discussion. The main complaint was that mediators spent too much time going over what for them was old ground – topics that they had already discussed in the family team meeting.

Another relatively common complaint was that mediators did not pick up on cues from the participants about whether they should explore a topic or not: “There are some times when people are trying to signal like, ‘Let’s move away from that topic, it’s gonna set us back.’” One mediator mirrored this complaint, saying, “I think we sort of alluded to some of the reports that we don’t get that would be helpful - background information, you know... It helps you put in context some of what is being said, so that you don’t make a faux pas and ask some stupid question that everybody else around the room knows the answer to.” Thus, in an interesting juxtaposition, the professionals complained about the mediators not knowing, and the mediators said they’d know if they had the information.

The third main complaint was that mediators did not understand the child protection system or the population involved. According to a few focus group participants, this leads them to at best ask numerous questions, slowing down the discussion. At worst, it leads them to make suggestions that aren’t possible or ask questions that lead the mediation onto dangerous ground. However, a couple of focus group participants noted that the mediators had improved in this regard in the past few years.

End of the Mediation

Finding: Mediators are not always summarizing at the end of mediation

Mediators wrapped up mediation in different ways. Sometimes they just ended the mediation, while some checked in with the parents to be sure they had all the information they needed. In just over half of the mediations, the mediators summarized the resolutions reached on the agenda items at the end of the mediation, such as “mom will make a doctor’s appointment for child by such and such a date” or “social worker will let mom know when child’s therapy sessions are.” Only two mediators wrote the resolutions on the flipchart. To be fair, in a couple of cases, the mediators had no time to formally end the mediation, as the participants hurried out of the room to file a stipulation or catch the shuttle.

Recommendation: Inform mediators on how to summarize better and more strategically

It is troubling that not all mediators summarized at the end of the mediation. An end of the mediation summary is an important part of the process, since at no other point is progress made at mediation captured for the group. The summary can work as a reminder to the participants of something they were supposed to do or of information they were supposed to exchange. In one instance in which the mediator summarized the mediation, it reminded a father’s attorney that they hadn’t yet resolved the issue of the father’s transportation problems. Further, as there is no written document that summarizes action steps and points of agreement, the participants may leave mediation with misunderstandings or disagreement over what the next steps are if there is also no verbal summary. A third benefit is demonstrating to the participants how much progress has been made and, for stipulation discussions, where their points of agreement are.

Recommendation: Write up a list of next steps that all participants can take with them

In addition to ensuring that mediators summarize the areas of agreement, it would be useful for the participants to have a list of decisions made and actions to be taken. GALs talked about the importance of having “concrete to-dos” written up so that the parents could see them and they themselves could rely upon them in the future. A social worker wanted something written so that she knew everyone was walking away on the same page. Further, interviewed parents who were the most enthusiastic about the mediation were the ones who trusted that they were getting the support they needed. It could help parents to have that trust if they walked away with newly offered services and actions written down.

Purposive Use of Caucus

This was the third time the mother's drug use had led to her child being removed from her care. The previous two times, Mom had been completely compliant, had stopped using drugs and had had her child returned. This time, Mom had been charged with a DUI after having an accident with her child in the back seat. It had been just a couple of months since her child had been returned.

In the mediation, Mom was contrite, amenable, ready to work at getting her child back again. But over the course of the mediation, it became clear to the mediator that Mom hadn't understood the situation she was in. This time was different. This time, the government was going to be arguing for adoption. Mom wasn't hearing this. So the mediator called for a caucus with just Mom and her attorney.

The caucus gave Mom's attorney the opportunity to speak with her candidly about what Mom was up against. Mom's attorney explained that if Mom didn't show that she could remain sober, her rights as a parent would be terminated. The mediator supported Mom's attorney as well, telling Mom, "You have to be perfect when it comes to urine tests, even if they [CFSA] screw up. Fairness doesn't even come into play."

The mediation ended with Mom signing the stipulation and with a greater understanding of the seriousness of the situation for her.

OTHER ASPECTS OF THE MEDIATION

Discussion of Stipulation

Stipulation was discussed in 13 of the 18 observed mediations and in all but ten unobserved mediations for which mediators completed surveys. Thus, stipulation was discussed in 74 of the 89 mediations (83%) for which there is data. The mediators gave a number of reasons for the participants not discussing stipulation, from a change in the guardian's decision to terminate guardianship to the attorneys coming to an understanding before mediation that the case would be headed to trial. However, the main reason was that the parent's attorneys stated at the outset that they wouldn't be discussing the stipulation.

Finding: Mediators do not fully facilitate stipulation

In observed mediations, when parent's attorneys said they weren't going to discuss the stipulation, the mediators sometimes pressed them to discuss it, even if that discussion was brief. One mediator also called for a caucus to talk with the parent's attorney and parent separately in order to determine where issues lie and whether there might be any room for discussion. Most often, though, stipulation is not discussed when the attorneys state at the outset that they don't want it on the agenda.

When stipulation was discussed in the observed mediations, mediators were not as active in facilitating as they were for the other topics discussed. In a few instances, the discussion took place without the mediator's participation. This, in part, confirms what the AAGs said in the focus groups. A few AAGs complained that mediators didn't facilitate the discussion about stipulation, although one said she preferred the mediator not to be a part of the discussion.

The mediators themselves weren't clear about what was wanted of them on this front. One noted that she had just spoken to an AAG who had complained about the mediators' lack of facilitation, while another said she never facilitated the discussion because she had been told by an AAG that her help wasn't wanted. They also have concerns about their facilitation of the discussion being seen as advocating for the parents to stipulate, and thus as them being seen as being biased. This is especially difficult because stipulation is not always in the parents' best interest.

Recommendation: Improve the ability of AAGs and mediators to handle stipulation in mediation

AAGs and mediators can learn to handle stipulation successfully in mediation from program staff and from other AAGs and mediators who have experienced fruitful discussions about stipulation. Mediators can learn how to facilitate that discussion without appearing to advocate for an agreement. AAGs can learn how mediators can be useful in their discussions, as well.

Use of Caucus in Mediation

Mediators reported that they separated the parties for individual meetings in 26% of the mediations, with more than half being for the discussion of stipulation. The rest were held for a variety of reasons, including addressing a parent's emotions, brainstorming with some of the professionals about how to proceed with the case, and giving the mother's attorney the opportunity to confront her client about the reality of her situation.

In four of the 18 observed mediations, the mediator formally called for a caucus. In a fifth, an informal caucus arose from an opportunity offered by the mother and her attorney leaving temporarily so that the mother could calm down. The reasons for the caucuses were similarly diverse as those described by

the mediators in their surveys. In three of the mediations, the mediator called for a caucus between the parent's attorneys and their clients. In two cases, this offered the parent's attorneys the opportunity to talk through the stipulation with their clients, go over what it said and decide whether to sign it. In both cases, the parents agreed to the stipulation. In another, despite both parent's attorneys statement that they were not going to discuss the stipulation, the mediator called for one caucus with the mother and her attorney and another with the father and his attorney to check in on what the issues were and determine whether it was worth pursuing stipulation further during the mediation.

In one case, the mediator called for caucuses twice. The first was to discuss the stipulation, and is discussed above. The purpose for the other was to give the mother's attorney the opportunity to impress upon the mother the seriousness of what she was facing. In another case in which domestic violence was involved, the AAG asked for a caucus to talk with the mother without the father and father's attorney present.

The informal caucus mentioned above allowed the mediator to press the AAG on the issue that had caused the mother to leave the mediation, which led the AAG to make a call to get more information. This information differed from what the AAG had been saying, and was beneficial to the mother.

The use of caucus in these situations led to fruitful conversations. In two mediations, what was discussed in caucus had the potential for reframing how the parents viewed their situation going forward. Professionals tend to like the use of caucus. In focus groups, a couple of professionals complained about caucuses not being used often enough. Professionals also noted their appreciation of caucuses in their survey responses, saying that the use of caucus was what made mediation effective. In one case, the use of caucus was emphatically praised and pointed to as having achieved an agreement that none of the attorneys believed possible going into the mediation. None of the professionals made negative statements about the use of caucus.

Finding: When mediators caucus to discuss stipulation, the participants are highly likely to reach agreement

When caucus was used to discuss stipulation, the mediation ended in agreement 67% of the time. Progress was made on the contents of the stipulation in all but two mediations. On the other hand, mediation ended with a signed stipulation in only eight of the 62 mediations in which a caucus was not held to discuss stipulation. This most likely means that the mediators are moving to caucus when they believe an agreement possible. However, it also could point to the effectiveness of caucus in helping participants reach agreement.

Barriers to Progress in the Mediation

In their surveys, mediators and professionals were asked what barriers to progress existed. Their responses were similar, with the most common response for each group being that there were no barriers. Mediators said there were no barriers for 23 mediations, representing 29% of the total number of cases they reported on. Professionals had this response 39% of the time.

NOTE: The question simply asked about "barriers to progress." However, the first option was about discussion of the stipulation, which may have framed the question for respondents in terms of progress toward stipulation.

Finding: Unwillingness or inability to discuss stipulation is the most common barrier to progress

For the cases in which the mediators and professionals noted there were barriers, they were more likely to blame issues among the participants than to point to more structural issues, such as lack of information. The most common barrier the mediators reported was a parent's attorney saying they would not discuss stipulation (in 13 mediations – 16.5%). When added to the nine mediations (11.4%) in which the parent's attorney did not discuss stipulation with their client before mediation, and the one in which the AAG declined to discuss stipulation, this means that in 23 mediations (29%), unwillingness or inability to discuss stipulation was a barrier to progress. Again, this is similar to the professionals' responses, 20% of whom said that someone unwilling to talk about stipulation was a barrier.

Professionals were slightly more likely than mediators to point to anger and hostility on the part of a party as a barrier, and were twice as likely as mediators to blame professionals for being unwilling to move off their position. Both groups also noted the problems caused by a professional's lack of preparation. Interestingly, given the number of complaints about mediators in the focus groups, only four professionals who completed surveys cited mediator lack of information or ability to facilitate the discussion as a barrier.

Finding: Mediation is most effective when professionals work with the mediator

What's clear is that mediation is most successful when the professionals work with the mediator and they all engage the parents. The majority of mediators who mentioned what made the mediation effective pointed to the participants themselves. They praised the professionals' openness and willingness to collaborate, mentioning, as examples, their "eagerness to work together" and that "everyone worked sincerely and cooperatively to support the process and the family." Parent's attorneys can also be of use before the mediation by preparing their client to engage in the process. In addition to praising the professionals for making mediation effective, mediators pointed to the parents' engagement, noting, for example, "the mother was very cooperative" and "the mother and father were actively involved in the mediation."

Observed mediations demonstrated this, as well. In some mediations, the professionals were actively engaged and supportive of the families. In these mediations, a rapport between the professionals and the parents was either developed or deepened, pointing toward a more constructive relationship in the future. In interviews, the parents who participated in these mediations were the ones who were most satisfied with their experience.

Further, mediators do have different skill sets, so they can be very successful in one mediation and unsuccessful in another, based on how the participants act. Indeed, one mediator was the subject of two stories above. In one, he was instrumental in helping the mother understand her situation. In the other, he did not actively try to engage the very unengaged professionals. The mediator whose mediation was described above as chaotic was later praised by the professionals for her management of a mediation that succeeded beyond anything they expected. This all points to the mediators and professionals being partners in making mediation effective.

Recommendation: Improve professionals' ability to participate in mediation and advocate for their clients most effectively

When professionals participate fully, the mediation is more effective and goals are more likely to be achieved. To do so, professionals should be willing to listen and should actively engage in the discussion. They should also be prepared for the mediation. Even those who are representing unknown fathers, and

therefore have little to discuss, could provide helpful information. Parent's attorneys should prepare their clients for the process.

For professionals to do all this, they need to understand mediation more comprehensively. They should know what the goals of mediation are, know how mediation can benefit all involved, and understand how the mediator's actions can help to achieve their goals. While the focus groups and survey comments demonstrate that many professionals do understand these, the focus groups also uncovered misconceptions and a lack of understanding on the part of others. Observations also uncovered an uneven level of effective engagement among the professionals.

Possible methods for improving skills are CLEs for the attorneys, participation in their regular meetings and training videos for new attorneys and social workers.

MEDIATOR'S SELF-DESCRIBED NEEDS FOR IMPROVEMENT

In focus groups, surveys and informal post-mediation talks with the evaluator, mediators demonstrated their ability to self-reflect and their desire to get feedback so that they can learn and improve.

Mediators want feedback, they want the opportunity to meet together to exchange tips and discuss problems, and they want more guidance about what they should be doing in the mediation.

During the focus group, mediators wondered about how they're doing and what their role is in the mediation. Some were unsure of whether they should facilitate the stipulation and how much they should delve into topics, particularly when they had recently been discussed at the family team meeting. They also said they wanted to learn more about how their individual mediations were perceived by the parties.

Recommendation: Provide more ongoing feedback to the mediators

The program has an end-of-term review for each mediator, which takes place at the end of each mediator's two-year term. In these, the program manager observes the mediator and debriefs them. Any issues that were observed are then addressed. The mediators expressed a desire for more frequent feedback, such as post-mediation debriefs, and access to survey responses.

Recommendation: Provide mediators with opportunities to meet

Mediators learn a lot from each other. They can benefit from each other's experience and discussions about how they have dealt with issues that come up in mediation. Indeed, at one point, the focus group turned into an opportunity for doing just this. The program should provide these opportunities on a regular basis, such as a monthly or quarterly "lunch and learn."

Recommendation: Provide mediators with greater guidance of what is expected of them in mediation

Mediators need more guidance about what they should be discussing in mediation and how much they should facilitate discussion of stipulation. Cross training with professionals, especially the AAGs, could help both groups provide better services to families.

DISCUSSION

The mediators are following protocol in the introductory phase and setting the agenda. They are adding value to the discussion through active facilitation that includes asking clarifying questions, reframing arguments, acknowledging parents' strong emotions and helping to defuse them, and summarizing points of agreement. Their facilitation skills enabled parents to gain greater understanding of their

situation, the court process and their responsibilities. The mediators helped ensure that participants had the information they needed and were all on the same page as to what had been discussed. They also used caucus selectively, and effectively, to move the parties to agreement on the stipulation.

Professionals who completed surveys recognized the mediator's important role in making mediation effective. The vast majority of their comments along this line were in praise of the mediator. Mediators, for their part, praised professionals and parents when mediation was effective, pointing to their willingness to be open, to engage, and to collaborate with others. The parents recognized the important role professionals play in their experience with mediation. Those who were interviewed left mediation very satisfied with their experience when they felt the professionals supported them, respected them and gave them the opportunity to speak.

There are areas for improvement, however. In almost half the mediations observed, the mediator did not summarize the points of agreement at the end, losing an important opportunity to ensure that everyone understood what was discussed and was on the same page about what will be done moving forward. Mediators also didn't facilitate stipulation discussions to the same extent that they facilitated discussion of other topics. This is an issue for AAGs, who feel that stipulation is not being given the attention it needs in mediation. Nonetheless, mediators held a caucus to discuss stipulation in 15 mediations. Ten of these mediations ended with a signed stipulation.

Professionals also did not always effectively participate in the mediation. When the mediation was not fully effective, professionals called out their colleagues for not being prepared or for being unwilling to move off their positions. They were also observed to be apathetic participants in some mediations.

The mediators and many professionals want more information about how best to engage in the mediation. The program and court should provide regular opportunities for exchange of information and training among mediators and all professional groups.

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In-Depth Exploration Child Protection Process

CHILD PROTECTION IN THE DISTRICT OF COLUMBIA

When a child is taken into protective custody because it is believed the child is in danger from his or her parent or guardian due to abuse or neglect, a petition is filed, and a family team meeting (FTM) and initial hearing are scheduled. Ideally, the FTM takes place before the initial hearing, which must occur within 72 hours of the filing of the petition. At the FTM, the parents meet with the social worker and supervisor, the guardian ad litem (GAL) and the Assistant Attorney General (AAG) to discuss the best interests of the child, find placement (where the child will live), if necessary, and begin to outline a case plan, which includes the services and assessments that will be required for the parents and children. Family members who are possible placements may also be in attendance.

At the initial hearing, two decisions are made: whether there is probable cause that abuse or neglect occurred and, if so, whether the child is in sufficient danger to be taken into shelter care by the state pending the result of the trial. It is at this time that the parents meet their lawyers for the first time. The hearing begins with a reading of the petition, which includes a statement from the social worker that all reasonable efforts have been made to prevent removal. The probable cause hearing is usually waived by the parent, meaning that they accept that the facts in the petition could lead to the reasonable conclusion that abuse or neglect have occurred. If probable cause is found or waived, services and assessments are ordered for parents and children, and DNA testing might be ordered to determine the paternity of the children. The judge also determines whether visitation should take place and whether it should be supervised or unsupervised.

The initial hearing is a formal legal process, and generally, the parents only speak briefly in response to legal questions asked by the judge. There are exceptions, however. The initial hearing ends with times and dates for mediation, pre-trial, and trial, with mediation required to be within 30 days of the hearing.

Mediation at this point in the case is mandatory. Almost every case is referred to mediation, and all those involved in the case are ordered to attend. Mediation is the first opportunity for all those involved to meet and discuss issues in the case, both legal and otherwise. Ideally, it takes place at a time when additional information has been gathered that can inform the legal discussion. That is, the parties are ready to discuss the contents of the stipulation, and at least know if the parents will be agreeing to stipulate in the future, if the parties are not ready to agree to the stipulation at mediation. Ideally, as well, mediation takes place long enough after the FTM for new information to be available about the status of ordered services and assessments, and the possible need for new ones.

A large majority of parents stipulate either at the mediation or sometime prior to trial. When that happens, the stipulation is filed and the case moves directly to disposition. If no stipulation is filed, trial²² must take place within 45 days for cases in which the children have not been removed from their home and within 105 days when the children have been removed. This trial will determine whether the abuse

²² Called a fact-finding hearing in the DC Superior Court.

or neglect occurred. Disposition hearings, at which the court decides where the children will reside while the court maintains jurisdiction over them, often take place directly after trial.

Once disposition is decided, review of disposition and placement hearings then must take place every six months thereafter, unless a permanency hearing²³ has been held within the previous six months. These are generally less formal than the previous hearings, and parents are more freely involved in the discussion.

The final phase of the child protection process is permanency, when the goal for the children, such as reunification or adoption, is solidified, and the process shifts to achieving that goal. The first permanency hearing must take place within 12 months of the children's entry into shelter care. Its purpose is to determine whether the goal will be to reunify the children with their parents, or if guardianship or adoption will be pursued. The court's objectives for time from initial hearing to permanent placement are ten months for reunification, 18 months for guardianship and 24 months for adoption.

CONDUCT OF HEARINGS

As part of the initial evaluation plan, and as a way to understand how mediation fits into the overall court process, three initial hearings, two pre-trial and seven disposition review hearings were observed. The hearings were conducted by seven different judges. The judges each had different styles, from friendly to business-like to formal. However, initial hearings and the pre-trial were generally more formal, with less interaction with the parents. However, in one observed initial hearing, the judge interacted extensively and in a very personable manner with the mother in an attempt to get information about where the father might reside.

Disposition review hearings were generally informal. Much of the time was spent problem-solving issues with services for the children and parents. The judges often spoke directly to the parents, giving them the opportunity to explain their circumstances and ask questions. They also took time to explain what was going on to the parents and why they believed certain steps needed to be taken. When parents became upset, the judges sometimes addressed the emotion, some more effectively than others, but other times appeared not to notice.

In each of the nine observed hearings, parents were as active as their attorneys let them be, although it was clear that the dynamic was one in which the judge had the power. This meant that the parents' experience of feeling heard may have been diminished by their lack of power. However, in some hearings, particularly the ones in which the parents and the judges were on the same page, the parents were able to express themselves openly. Further, no matter how difficult the parent, the judges all treated the parents with respect. This indicates that many parents have a continuing experience of procedural justice²⁴ after mediation.

²³ To determine where the child will permanently reside.

²⁴ Research has found that parents who feel heard and feel respected experience procedural justice. See [p. 24](#) for a more detailed explanation.

In-Depth Exploration

Additional Data

COMPARISON WITH FINDINGS FROM 2005 STUDY

An evaluation of the Child Protection Mediation Program was conducted in 2005, looking at 2002-2003 data. Below is a comparison of findings between that study and the findings from this one, using 2017 data. Many of the evaluation questions were different between the two studies; therefore, the table does not include all the findings from each of them.

	2005	2018	Notes
Time spent in mediation session	Average: 2.2 hours Range: 0.5-5 hours	Average: 1.4 hours Range: 0.25–3 hours	
Timing of mediation	Average: 27 days from initial hearing	Average: 24 days from initial hearing	The 2005 data was for 2003; in 2002, the average was 39 days.
Percent of mediations ending in stipulation	Minimum of 54%	25%	In the 2005 evaluation, stipulation alone was considered to be a partial agreement, as was agreement on the case plan alone. These were aggregated, so it is unknown how many partial agreements were for stipulations.
Time to permanency	7.6 months for removal cases	26.6 months for all cases	These numbers are for mediated cases that had closed
Survey Results			
Parents satisfied with mediation	85%	78%	
Parents satisfied with the outcome	89%	72%	In 2018, satisfaction with outcome was correlated with whether the parents reached agreement, which could be the reason for the dramatic drop in satisfaction.
Parents who better understood others' concerns/ points of view	69%	90%	The 2005 survey asked about their understanding of others' concerns; the 2018 survey used the term "points of view."
Professionals who better understood others' concerns/ points of view	64%	75%	The response rate for 2018 was much lower than for 2005, which could have skewed the results.

COMPANION CRIMINAL CASE

In child protection cases, if the investigating social worker believes that a child has been abused, the case can be referred to the police as a criminal matter. The criminal investigation then continues in parallel with the child protection process, and the parent is assigned a criminal attorney along with an attorney for the abuse and neglect proceedings. Because decisions in the child protection process – particularly whether to agree to stipulate to the facts – can have repercussions on the criminal case, the court was interested to find out if mediation was worthwhile in cases involving (or possibly involving) a companion criminal case.

In 2013-2014, companion criminal cases did not appear to affect whether a parent stipulated at mediation, as seven of 22, or 32%, stipulated at mediation. This may no longer be the case, however, as the percentage is much lower for 2017. Full data is not available for 2017 mediations, but of 15 known mediations of cases involving possible criminal charges, only two ended with a signed stipulation. Nonetheless, in all but one of these mediations, the professionals, parents and mediators all saw numerous benefits resulting from the mediation.

Method

The evaluation examined this question for both cases filed and mediated in 2013-2014 and those mediated during the study period in 2017 through a variety of methods:

- Descriptive statistics indicating whether parents with companion criminal cases stipulate, and if so, whether at mediation or not
- Comparison of outcomes of 2013-2014 mediated cases between those that involved a companion criminal case and those that did not
- Focus group discussions
- Mediation observations
- Mediator and professional surveys

2013-2014 Case Outcomes

In 2013-2014, 33 of 429 families had cases that involved a companion criminal case. Of those, 22 participated in mediation, with seven of those mediations resulting in a signed stipulation. Cases involving associated criminal charges were not more likely to stipulate overall if they were mediated than if they did not. In all, 19 of the 22 mediated cases involving companion criminal cases stipulated before trial, while eight of the 11 non-mediated cases had a stipulation filed before trial.

Time to stipulation does not appear to be affected by mediation. Thirteen of the 19 mediated cases that stipulated did so within 60 days of the initial hearing, as compared to four of eight that did not mediate.

Outcomes from 2017

The data regarding whether criminal charges were being investigated came from program data, mediator surveys, professional surveys and observations. Mediators and professionals were not asked specifically if a companion criminal case existed, but were asked instead what the barriers were to getting an agreement on the stipulation. Therefore, the data from their surveys is highly skewed toward mediations that did not end in stipulation. Data from the program did not always indicate whether criminal charges were possible, which means it's not possible to know more generally whether a companion criminal case is involved.

In all, professional and mediator surveys identified 12 cases that involved possible criminal charges, and the program data identified three more. Thus, 15 cases were identified as definitely involving a criminal investigation. Of these, only two mediations ended with a signed stipulation. For another 17 cases, program data indicated that there possibly was a criminal investigation, but the information was less certain. The agreement rate for these is not much higher, with only three of the 17 ending with a signed stipulation.

Comparison of 2013-2014 to 2017:

The outcomes from our two datasets indicate that mediations of cases in which the parents have been charged with a criminal offense or for whom there is a criminal investigation were less successful in reaching agreement on the stipulations in 2017 than they were in 2013-2014. Possible reasons for this discrepancy are:

1. The small numbers involved simply mean that this is a blip in the data, not a real trend in the outcomes.
2. The datasets aren't comparable, as 2017 is missing data on which mediations involve potential criminal charges.
3. The situation has changed since 2013-2014, due to the Child and Family Services Agency's change in policy to petition only the most challenging cases. This has led to overall declines in the percentage of cases stipulating at mediation.

Data from Focus Groups

Parent's attorneys extensively discussed their decisions regarding mediation when a companion criminal case is involved or contemplated. For two attorneys, their decisions about whether to mediate stipulation, and even whether to participate in mediation at all, were based on how well they thought they could control their client and how far along the criminal case was in the court process. For one, stipulation was simply off the table if there was a criminal investigation.

Parent's attorneys were very aware of the potential impact of what happened in mediation on the criminal case and their client. They did not believe there was a solid wall of confidentiality between mediation and what comes after, in that what is learned in mediation can be used as a form of discovery by the Assistant Attorney General (AAG). An AAG confirmed this, saying that even though mediation was confidential, if something came up that affected the case, AAGs knew how to get that information by another means in order to introduce it at trial.

Due to their concerns about the impact of what is said in mediation on the criminal case, parent's attorneys were firm that they would not talk about any incidents of abuse. This, of course, could affect

whether stipulation is discussed at all, since the parents must agree to the facts of the abuse in order to agree to stipulate. Discussion also moved to whether to attend mediation at all. One said that the criminal case trumps the child protection case. Therefore, for some of her cases, there was no family team meeting (FTM) and no mediation. She wanted to be sure that her client did not say anything in these settings that could adversely affect the outcome of the criminal case.

Nonetheless, the parent's attorneys said mediation is beneficial even for cases involving companion criminal cases, particularly if the charge appears to be minor. It can help parents to discuss services and visitation. Further, as one parent's attorney said, "There could be a lot of things that would come out [in mediation], you know, make people understand really the real nature of the case," which can help even if he plans on taking the case to trial.

Data from Mediation Observations

The difficulties posed by companion criminal cases were clearly seen in three observed mediations. In two of them, progress couldn't be made on the stipulation because the status of the criminal case was unknown or there was uncertainty of how it would turn out. Under those circumstances, neither the AAG nor the parent's attorneys could begin to outline the terms of the stipulation. In the other case, the criminal case had held up progress on stipulation because the option of an Alford stipulation had to be explored.

Data from Surveys

In their survey response, professionals and mediators alike noted that the companion criminal case was a barrier to progress in the mediation. Four of the professionals seemed to imply that under different circumstances, progress could have been made, however. Two thought mediation should have been conducted after some discovery had been completed, while the other two who mentioned the companion criminal case believed that the parent's criminal attorney's input before or at the mediation might have been helpful: "It may be helpful in the future to have the criminal attorney involved beforehand on stipulation/mediation."

Mediators were also hopeful about progress being made for cases involving possible criminal charges, although only one mentioned the possibility of stipulation: "I think the mom's attorney wants to stipulate but needs more neutral language. They'll continue to work this out over the days and weeks ahead."

Despite the inability to move forward with stipulation in some cases involving possible criminal charges, parents, professionals and mediators alike saw numerous benefits and outcomes from all but one of the mediations with known companion criminal cases. The parents said they gained understanding of others' points of view and of what they need to do next, with all but two saying they did so "very much."

Professionals saw between two and eight benefits from these mediations. Most common among them was that the parents were able to talk about their concerns. Most also said that communication was enhanced among the professionals. Six said that visitation or services were added or improved, and five said that professionals were held accountable. Three said that parents' emotions were defused and three said progress was made on the stipulation. Mediators had similar assessments, although they believed more mediations helped the professionals to communicate and to defuse parents' emotions.

All of this points to mediation providing necessary benefits, even when stipulation can't be agreed upon, or even discussed.

DISCUSSION

Despite the acknowledged difficulty of reaching agreement on stipulation at mediation for cases involving possible criminal charges, the evidence shows that these cases and those involved in them are benefited by mediation. This is recognized by professionals who completed the surveys and the parent's attorneys who participated in the focus group. For the latter, however, the problems involved in mediating cases involving severe allegations can outweigh the benefits. Although some parent's attorneys think that mediation is not in their clients' best interest if the companion criminal case can lead to severe consequences, they see mediation as aiding their clients if the parent is being investigated for minor criminal allegations.

All this indicates that the court should continue to refer cases that involve criminal investigations. However, mediation for these cases should be scheduled closer to the deadline, giving the attorneys time to conduct some discovery and gain more information about the status of the criminal case. If needed, the court should be able to extend the deadline so that these cases can be mediated later.

In-Depth Exploration Perspectives on the Program

FOCUS GROUPS

An important element of any process evaluation is to obtain in-depth information from those most involved in the program. To get this information, five focus groups were held, encompassing attorneys for the children, attorneys for the parents, government attorneys, social workers and mediators. The purpose was to gain insight into what these groups want from mediation, to get their perspectives on the program and the process, and to solicit their recommendations for improvement.

While each group had its own perspective on the mediation program and the mediation process, the focus groups uncovered areas of agreement:

- Mediation should remain mandatory
- Mediation should continue to be scheduled at the initial hearing
- Mediation provides significant benefits to both parents and professionals
- Mediation takes up too much time
- Professionals need to be better prepared for mediation
- Pre-mediation communication needs improvement
- Mediators need more guidance

The professionals see mediation as beneficial, but burdensome. Most believe mediation is providing benefits to the parents and themselves, but that it takes too long and those involved need to prepare more for the process. They think mediators are skilled and have the right demeanor, but that mediators need to better facilitate the stipulation and pick up on cues. Mediators themselves would like more feedback and more opportunities to learn from each other.

SUMMARY

It was clear that there was little interest in ending mandatory mediation, and all but a few focus group participants believed mediation provided benefits that made mediation worthwhile. Those benefits were diverse and went beyond stipulation.²⁵ The participants see parents as the main beneficiaries of mediation, but they saw the upside for professionals as well.

Despite their belief that mediation was beneficial, many professionals emphasized the time burden that mediation places on them. When professionals were asked during focus groups what their first thought was when they saw they had a mediation scheduled the next day, a common response was “how long will it take?”. When asked about problems with mediation, professionals’ first response was almost always that it took too long. The social workers complained that they had to change their schedules or get others to cover a visitation for them. This all points to their seeing mediation as burdensome.

²⁵ A stipulation is an agreement between the government and the parent to the facts of the case.

A good number of focus group participants were also frustrated with the lack of preparation by the professionals involved, particularly in preparing the required reports. And though some professionals praised the mediators for their demeanor and skill, some also noted that they could improve their understanding of the child protection system and take more cues from the participants.

The professionals believe mediation should occur at around 30 days after the initial hearing. It should not occur too soon after the family team meeting (FTM), but it should also not occur more than five to ten days beyond the 30-day deadline.

Method

In order to have homogenous groups, the focus groups were divided by role in child protection cases. One focus group was conducted for each role, comprising 37 professionals and nine mediators.

The Focus Groups	
Assistant Attorneys General (AAGs)	These attorneys represent the government in child protection cases. They also represent the social worker in the case.
Children's Law Center Guardians Ad Litem (CLC GALs)	The Children's Law Center is a non-profit that contracts with the court to represent children in child protection matters.
Counsel for Child Abuse and Neglect (CCAN Attorneys)	These are private attorneys who contract with the court. Some represent only parents, some represent only children, and some act both as attorneys for the parents and attorneys for the children in separate cases.
Child and Family Services Agency Social Workers	CFSA is the government agency tasked with working with families who are at risk, and those in which the children have been taken into shelter care.
Mediators	The mediators for these cases are primarily contract mediators paid for each mediation. However, there are two staff mediators who also conduct child protection mediations.

The five focus groups involved seven to 11 participants each, with each focus group lasting approximately 90 minutes. The focus groups were run by an experienced facilitator, with the evaluator taking notes. The focus groups were recorded, and the recordings were transcribed by a professional service. The evaluator and her assistant then each coded the transcripts separately, and jointly reconciled any differences in coding.

Questions

The attorneys and social workers were asked the same series of questions:

- *When you look at your schedule and see that you have a mediation tomorrow, what is the first thing you think of?* This was an introductory question meant to ease the participants into the meat of the content, but also meant to get a sense of how they feel about mediation.
- *What is your goal for mediation?* This question explored what professionals want out of mediation in order to both understand the expectations professionals have for mediation and to provide context for later responses.

- *When you think about mediation, what benefits do you see? To you, to the parents, to the child?* This question was asked to find out how (or whether) mediation helps all those involved in the case.
- *When you think about mediation, what problems do you see? For you? For the parents? For the child?* This explored the opposite of the last question: do the professionals think that mediation creates any problems for those involved in the case, and under what circumstances do those arise?
- *What about the program works well?* This question expanded the frame to aspects of the program that surround mediation: referral, timing, duration and so forth. It was designed to find out what aspects should continue or be expanded upon.
- *What about the program doesn't work well?* This was designed to find out what issues with the program need to be addressed.
- *What is the right timing for mediation to take place?* This question arose from one of the central evaluation questions, which was whether the court rule governing pre-trial mediations should be amended to extend the timing of mediation beyond 30 days from the initial hearing.
- *What recommendations do you have for improvements?* Since professionals interact with the program and participate in mediation, this question was intended to collect their ideas about how to improve their experience.

Mediators were asked:

- *Why do you continue to mediate these cases? (For staff mediators: Why did you take this position?)* This question was intended to elicit their underlying motivations.
- *What is your goal for mediation?* Like professionals, mediators have their own goals for mediation. This question was meant to get information about what the mediators saw their role as being.
- *When you think about mediation, what benefits do you see? To the professionals, to the parents, to the child?* This question was asked to find out how (or whether) mediation helps all those involved in the case.
- *When you think about mediation, what problems do you see? For professionals, for the parents, for the child?* This explored the opposite of the last question: What issues does mediation create? What are the ways in which mediations are hampered?
- *What about the program works well?* This question expanded the frame to aspects of the program that surround mediation: referral, timing, duration and so forth. It was designed to find out what aspects should continue or be expanded upon.
- *What about the program doesn't work well?* This question was designed to find out what issues with the program need to be addressed.
- *Are you getting the reports you are supposed to be getting from the parties in order to effectively mediate these cases?* This narrowly-worded question was asked in order to find out if there was any need to address how and when pre-mediation reports were submitted.
- *What would make the mediation process work better?* This question was intended to elicit recommendations for improvement from the mediators.

The Focus Groups

Children's Law Clinic guardians ad litem (CLC GALs)

This group was made up of 11 attorneys who represent the interests of the children. Most were experienced both with child protection cases and with the mediation program. Their experience with mediation ranged from one who said he or she participated in seven to ten mediations, to three who had participated in an estimated 50-60. In between were six who had participated, in their estimation, in anywhere between 15 and 40 mediations.

This group was the most representative group of the five, with 11 of the 23 CLC attorneys (48%) participating.

Counsel for Child Abuse and Neglect (CCAN)

Counsel for Child Abuse and Neglect are private attorneys who contract with the court to represent both parents and children. Members of this group were all experienced with pre-trial mediation. Of the seven who participated, three said they had participated in more than 100 mediations, three in an estimated 50 or 60, and one in approximately 15-20. The group included three attorneys who only represented parents, two who exclusively or mostly represented children as GALs and two who did a roughly equal mix of both.

This focus group was the least representative of the groups, as only seven of 217 CCAN attorneys (who did not work for the Children's Law Center) took part in the focus group. It's not clear what the real representativeness was, however, since the roster of CCAN attorneys provided to the evaluator included education attorneys. Nonetheless, the group represented less than 10% of the 79 CCAN attorneys who participated in mediation as parent's attorneys and/or GALs during the seven months of 2017 in which data was collected. The group was knowledgeable about mediation and supportive of it. Thus, the group represents the viewpoints of those CCAN attorneys who appreciate mediation and are more likely to know how best to make use of it.

Assistant Attorneys General (AAGs)

The ten members of this group of government attorneys represented 42% of the 24 AAGs who work on child protection cases. They were almost all very experienced with pre-trial mediation. Their experience ranged from one person who had participated in only two mediations to six who said they had participated in more than 100. In the middle were two with around 15 and one with around 50.

CFSA social workers

This group of nine ongoing social workers²⁶ had more members with little mediation experience than the other groups. Four said they had participated in seven or fewer mediations, while the estimate for three social workers ranged from 20 to 40. One had been with CFSA for 18 years and, thus, had been part of hundreds of mediations. One had significant experience until 2012 and had only participated in two mediations recently.

The group represented 18% of the ongoing social workers at CFSA who worked on these cases. However, they were a much smaller percentage of the social workers overall who participate in pre-trial mediations. These include private social workers and the Child Protective Services social workers who

²⁶ Ongoing social workers take over the case once the petition has been filed in court. They work with the families until case closure.

conduct the investigation into allegations of abuse or neglect, who often participated. Although private social workers are often contracted to work with families and, thus, often participate in pre-trial mediations, it was decided that it would be too difficult to include these social workers in the focus group.

Mediators

Nine of the 20 mediators (45%) who are qualified to conduct pre-trial mediations participated in the focus group. The nine included two staff mediators and seven contract mediators. They had a varied level of experience. Three had been conducting pre-trial mediations since the program began in 1998. Three others had been with the program for eight to 12 years, while three were relatively new, with three to five years of experience.

FOCUS GROUP DISCUSSIONS

Each focus group discussion ran through the questions listed above, while allowing a certain flexibility for how that discussion evolved. The responses to the questions are discussed below.

Initial Thoughts on Mediation

When the attorneys and social workers were asked what their first thought was when they saw they had a mediation scheduled the next day, the question drew two primary themes: the time it will take and whether they and everyone else was prepared. Time was the most common thought, making up a third of the responses. These thoughts were along the lines of: How long will I wait? Will the parents or other attorneys be late? Will it take the full three hours? Will I have to rearrange my schedule? Those who were concerned about preparation focused mainly on reports - whether they had completed their report, whether others had read it, and whether the draft stipulation had been prepared and reviewed.

A few professionals' thoughts went to whether the mediation would take place: Will the parents show up? For a social worker, has it been cancelled and I haven't been told? A few others wondered what would happen in the mediation: Will it just be about stipulation for the AAGs? Will it be contentious? For a parents' attorney: How will their client, the parent, do in the mediation setting?

These responses point to the professionals feeling the burden of the time mediation takes as well as their desire that the mediation be effective. Effectiveness, in their eyes, requires that participants prepare in advance, particularly by providing the information required for a productive discussion.

Professionals' Goals for Mediation

More than half of the attorneys and social workers who participated in the focus groups articulated what their goal for mediation was. Their goals demonstrated a sophisticated understanding of mediation and are similar to those the court has for the program. They can be categorized into the following:

- Gain information about the case, the parents and others involved in the case
- Obtain a stipulation or otherwise focus on the legal issues
- Help parents and children
- Hold other professionals accountable

It became clear during the focus groups that their goals for the mediation were tools for achieving their larger goals for the case itself. Through mediation, they want to move the case forward and gain better

understanding of the case and the people involved, so they can make better decisions. Many also want to help the parents, which will enable the parents to not only get the services and assessments they need, but also to work well with those involved in the case.

Gain information

About a third of those who said what their goal was for mediation said they wanted to obtain information, making it the most common goal attorneys and social workers had for mediation. This goal was cited primarily by CCAN attorneys and CLC GALs.

CCAN attorneys saw mediation as an opportunity to learn about the progress of the case, as well as get information to help their client as the case moves forward. As one said, “My goal, if I’m representing a parent, or a kid even...is usually to find out where we are in terms of placement, services.” This is particularly important for the parent’s attorneys because they aren’t present at the family team meeting (FTM), at which placement, services and visitation are first addressed.

Mediation also serves to provide information that can help in the future, as one CCAN attorney noted: “One of my goals...is to gather information about what they have against my client. Sometimes you can get details, if it’s not going to be a stipulation, to prepare for trial. So I’m always listening for the little gems, the little tidbits of what’s going to come or what possibly could come up at trial.” Another CCAN saw it as a way to see how the other professionals are reacting to her client, information that can help to “see where I may be having issues or difficulties.”

CLC GALs said they looked for information that can help them see what the dynamics of the case will be, “Like even if there is no stip[ulation] you can at least kind of gather what the parents’ position might be, which parts of the statute are sticking points for them.” Parent/attorney interactions can also be revealing: “I think it’s also an opportunity to observe the dynamic between the parents and their attorney...because if I’m seeing in mediation that they clearly have not spoken with one another since the initial hearing then I think that’s going to influence ongoing work throughout the case.”

Obtain a stipulation

Only seven of the 46 focus group participants affirmatively stated that their goal was stipulation, including three CCANs, two AAGs, a CLC GAL and a social worker. However, stipulation was a significant part of the discussion for all the attorney and social worker focus groups, indicating that although the professionals – particularly the AAGs – didn’t say that their goal was stipulation, it is an important aspect of mediation for them.

Although only two AAGs said that their goal for mediation is to obtain a stipulation, as a group the AAGs spent much of their time in the focus group talking about issues surrounding it. More than one said something similar to, “If we’re not going to talk about stipulation, why are we here?” They also said that they would prefer stipulation not be the last item discussed in mediation.

For the CCAN attorneys, stipulation is also an important issue in mediation. Three of the seven CCAN attorneys said discussing the stipulation was one of their goals for mediation. However, there was some consensus that there are cases in which, as parent’s attorneys, they absolutely do not discuss stipulation. These generally are when a serious criminal case is involved. On the other hand, when they put their GAL hat on, CCAN attorneys see the harm in not talking and not moving forward. This push and pull regarding the stipulation is a source of frustration for the AAGs, as will be discussed later.

The social workers in the focus group generally accepted stipulation as the goal of mediation rather than asserting it was. As one said, “It looks like that’s the only focus.” Another noted that social workers don’t really know what the purpose of mediation is: “I think there’s sort of a lack of understanding about the goals ...especially as a new worker when you’re coming in, you don’t really know why you’re there. You’re just required to be there. And I think a lot of the messaging that comes from the AAGs, from the attorneys, is to achieve – to get stipulation.” On the other hand, one social worker summed up her feelings by saying, “the only thing I personally get out of mediation is if they stipulate.”

CLC GALs were the least focused on mediation as being a vehicle for obtaining a stipulation. As a group, they were much more likely to mention the AAGs’ focus on stipulation as being detrimental than to say it was an important aspect of mediation, although they also saw the reluctance of some parent’s attorneys to discuss stipulation as similarly harmful to the process. Nonetheless, they were clear that there are more important things to achieve than stipulation, such as gaining information and holding others accountable. One GAL, however, said discussing stipulation was her goal for mediation.

Help parents and children

At least one professional in each focus group except the AAGs said they went into mediation with the goal of helping the parents or children in some way. In all, nine said this is their goal, which includes getting services for parents and children, clarifying the professionals’ roles to the parents, helping their client, helping the parents advocate for themselves and helping them to understand what’s going on.

Two CLC GALs want to help the parents understand the role of the GAL and how they are separate from the government. According to one of the GALs, while the purpose for doing this is to help parents, it may also help GALs, because it can improve their relationship with parents:

“I think it’s also an opportunity to kind of refigure our role with the parents. In an instance when you get the initial hearing, you are supporting shelter care. But...distinguishing your role as separate from the government, I think that happens most clearly in mediation. We are pushing on the social worker to do a lot of services and then pushing representation to [do] things that are important to the client’s best interest.”

Both CLC GALs and CCAN attorneys brought up the goal of getting services in mediation. As a GAL noted, “There are times when things are going so poorly in a case that I have very specific things I want, whether I want the agency [CFSA] to come up with a plan for visitation or services.” A CCAN said that as either a parent’s attorney or a GAL, she saw mediation as an opportunity to be sure her clients are getting the services they need.

CCAN attorneys also wanted to advocate for their clients, as best seen in this quote: “My first thought is always, how is this person going to do in a mediation setting? And then thinking about, ‘Now what do I need to do based upon that?’” One also wanted his clients to feel safe, particularly when domestic violence is involved.

For one social worker, her role is to be helpful to the parents, saying, “And a lot of times I’m helping parents understand certain things. Because they may not be familiar with the process. So for them to – I kind of get the parents to advocate to speak for themselves at mediation.”

Hold others accountable

Three focus group participants said they go into mediation wanting to ensure that everyone is doing what they are supposed to be doing for the case, particularly in arranging services and placement. For them, mediation creates action steps for professionals and provides the opportunity to ask social workers what they've done and where things stand.

This was said best by a CCAN attorney, who said:

"You know, it's great to have the social worker and the AAG in the room together because, depending on how good of a social worker it is, you can put it on the social worker 'why have you or haven't you done this, or tell me how you're going to do this.' And her or his counsel's going to hear it too. So that everybody's hearing what it is that you want. And you know it's a way to, if something doesn't get done, even though mediation is confidential, things like services you can say, well, you know she said that she was going to get this done by X amount of time."

Mediators' Goals for Mediation

Although the mediators believe the primary purpose of the program is to get a stipulation, they see their goal very differently. The primary stated goal of the mediators was to facilitate open communication among everyone at the mediation. They see their role as creating a safe environment for discussion, leveling the playing field between the professionals and the parents, providing voice to all parties, and defusing negative emotions. They also see their role as ensuring that all information is exchanged and all issues covered. A mediator pulled all these together, saying, "My general goal is usually to create that safe environment for the parties, be able to have a conversation ... ask question, get answer. At the same time, empowering them [the parents]. I guess it goes back to the leveling the playing field for them as much as they can."

A couple of other mediators focused on more concrete goals. For one mediator, her goal is to help parents understand what it will take to have their children come back home, and how long that might take. Another said she mediated to help the families, "I also think that small things can be really important...Is there something we can do that's concrete? And it can be as simple as my kid needs more school uniforms, can I take them to the foster parents after? You know, for the visitation, a kid may need eyeglasses. Can we make sure he immediately gets to the eye doctor?"

Benefits of Mediation

The focus group discussions about the benefits of mediation often reflected participants' goals and can be categorized into three themes: ways mediation moves the case forward, ways it helps the families and ways it helps the professionals. The participants' responses were almost equally distributed among these themes, though tilted slightly toward moving the case forward.

Ways mediation moves the case forward

When the focus group participants cited benefits that focused on the case, they all encompassed ways in which the process could help to set the case in motion. Mediation, in their eyes, assists the parties in reaching agreement on the stipulation, helps move the case forward by getting everyone together in the same room and communicating, and encourages accountability.

Stipulation

Stipulation, in general, is seen as an essential element for moving the case forward, as the case can move directly to disposition as soon as the stipulation is filed. Thus, stipulation in mediation is seen as being able to get the ball rolling very early on. Focus group participants recognized this by making stipulation the most common benefit cited, with 11 saying this is a main benefit of mediation. However, the mediators were the most likely to mention it.

Only seven professionals brought this up as a benefit, including only two AAGs. As AAGs are focused on stipulation, it would seem that AAGs would be quick to say this is a benefit of mediation. On the contrary, four of the AAGs who discussed this said that mediation was not needed to get a stipulation; they could do this on their own. Two preferred it that way. They believed, as one of them said, “whether I have success in mediation or not, it actually all comes down to what work we’ve done as a group prior to mediation.”

There appeared to be general agreement among AAGs that stipulation isn’t actually mediated. In their experience, when the discussion turns to stipulation, mediators hand the reins over to the AAGs rather than continue to facilitate. It was clear that at least three AAGs saw this as a slight by the mediators, who they believe are not interested in whether stipulation is discussed because they have other goals. There was a discussion, however, about instances in which an AAG said the mediator helped to obtain stipulations when she thought it wasn’t possible. This was eye-opening for some of the AAGs.

The AAGs’ complaint had an interesting parallel in the mediators’ discussion. It became clear during the discussion that mediators had been getting mixed signals from the AAGs about whether to help facilitate the discussion about the stipulation. One mediator said she had a conversation with an AAG who said that she was annoyed that the mediators didn’t mediate the stipulation, while another responded that when she had tried to ask questions that would facilitate discussion of the stipulation, she was shut down by the AAG. Another mediator supported the AAGs’ contention that mediators don’t mediate the stipulation; he had observed mediators handing the discussion of stipulation over to the AAG.

The mediators’ ambivalence about facilitating discussion about the stipulation was further seen in statements about the stipulation itself. One said that stipulation is a slippery slope because the mediator has to be careful not to advocate for stipulation, while another said that stipulation isn’t always in the best interest of the parents.

Despite this ambivalence, the mediators were the group that most often said stipulation is a benefit of mediation. They understood that this was the court’s goal for mediation and see mediation as enabling discussion that leads to agreement.

Three of the nine social workers also saw stipulation as a benefit. As one said, if mediation can end with a stipulation, then that gets the case moving forward, to which another social worker agreed.

The two CCAN attorneys who mentioned stipulation as a benefit noted that when stipulation happens in mediation, the case goes faster and services start being addressed. As one said regarding reaching resolution in mediation, “I always say, let’s not waste this time. You’re losing all this time between the initial hearing and this trial.”

CLC GALs did not mention stipulation at all when discussing the benefits of mediation. For them, mediation provides other important benefits.

Communication

The professionals, aside from the AAGs, also saw mediation as helping to move the case forward in other ways. It does so by bringing everyone involved in the case together early, which helps them to brainstorm solutions and gets them all on the same page.

“...Sometimes the biggest challenge for us in teaming is to get people in the same room. Getting attorneys in the same room, scheduling a case planning meeting is a pain. So since everyone’s required to be there [in mediation] it’s a great opportunity to have that extra discussion...” (GAL)

A few CCAN attorneys also see mediation as a way to bring the parents closer to stipulation by helping them to understand what they’re up against and to begin to see that trial is not in their best interest. They see this as part of a process for getting the case moving and getting the child returned home, as described this way “And the sooner you can get on the same page...and focus in on what you need to do to get them home, the sooner this case will be over...So I’m always trying to get them at mediation to try and really look at like how do we resolve this. Cause I want that trial off the table. I just don’t think the trial helps anybody.”

The CLC GALs were especially clear that mediation offers an opportunity for all those involved to come together and focus on the case, but a social worker expressed the idea best: “So there’s definitely a benefit. Because sometimes the biggest challenge for us in teaming is to get people in the same room. Like getting attorneys in the same rooms, scheduling a case planning meeting is a pain. So since everyone’s required to be there [in mediation] it’s a great opportunity to have that extra discussion...”

The mediators did not mention communication as one of the benefits of mediation.

Accountability

Related to getting those involved to focus on the case, CLC GALs saw mediation as an opportunity to hold others accountable, particularly the social workers. Mediation generates action steps. As one said, “It’s usually, like, sometimes they’ll have their pad like that [flip chart] and they’ll write their framework or whatever and they’ll have maybe a to-do list for each person. I like those personally because I think it’s a concrete thing you can write down and take with you out of the mediation.” Another added, “That helps the parents actually a lot – the concrete to-do list – because a lot of times parents come in with like, ‘Well I haven’t seen my child and the social worker is not returning my calls.’”

Ways Mediation Helps Parents

Members of each focus group, totaling 13, said mediation provided benefits to parents, and to a certain extent to the children, with CCAN attorneys and mediators being the most positive about how mediation helped them. For them, mediation is a unique forum in the child protection process, elevating parents to a level of importance and giving them a voice they don’t otherwise have. Other ways mediation was seen as helping parents was to reassure them that the professionals wanted to help get their children back to them, to help them understand what they needed to do in order for that to happen, and to level the playing field.

Mediation is a unique forum for parents to be important and have voice

Eleven focus group participants saw mediation as a unique space for parents to feel important and to have the opportunity to speak for themselves, an opportunity that they don't otherwise have in the child protection process. A social worker recognized the difference between the FTM and mediation, saying, "I think there's a benefit for the parents because I think when they come here to do FTM they just kind of feel like they don't really have a say. It's basically like, you know, whatever CFSA says. They kind of feel intimidated. But at mediation, I feel like they're more empowered to speak up for themselves."

A CCAN attorney, speaking as a parent's attorney, saw it similarly:

"Mediation is important to the clients... That's what I would tell them. That 'this is an open discussion and you are not going to be restricted by the judge or by the court. And everything is confidential.' So they really get a chance to speak up and say whatever they want. And I find that very important. Because they are treated more importantly than they are otherwise. Than they are in court. I mean they're like everybody. And it's important for them to say things as well. And they are really the important, the most important person in that meeting at that time."

An AAG also saw the positive impact of raising the parents' level of importance, saying, "I think it does give the parents the thing that they might have been bottling up knowing that the meeting is here at CFSA. Sometimes they're in their homes. Most of them, I think, know that they have to be agreeable during an FTM or during a court hearing, but then in mediation, they have the upper hand, which I think is facilitated by the mediators at times, and I'm not sure I think that's a bad thing in all cases."

A few focus group participants pointed to other ways in which mediation helped parents. It can help parents to face up to their situation, particularly when the mediator helps to explain this. It also helps parents to understand what they need to do going forward. A CCAN attorney simply said it's an opportunity to help parents through a difficult time.

Mediation Helps Professionals

Fifteen of the 37 professionals who participated in the focus groups believed mediation provided them with at least one benefit. CCAN attorneys saw it as helping them to gain the trust of their client, as well as letting them see how others respond to their client. A couple of AAGs also saw it as a way of gaining the trust of the parents. CLC GALs saw it as giving them more information about the parents and providing an opportunity to exchange information. A social worker with 18 years of experience saw it as providing her with all of these benefits. The CLC GALs and CCAN attorneys were clear that the information and understanding they gain in mediation helps them to make better decisions about the case.

The mediators viewed mediation as helping professionals, as well, but they were more likely to see the benefits as accruing to all participants together.

Mediation helps GALs and social workers to understand the parents as well as family dynamics

CLC GALs, in particular, saw mediation as helping them to understand family dynamics and parents, which can lead them to make better decisions about the case. This was best summed up this way:

“I do always feel that I get to see people's reactions in kind of a less guarded form, so I'm always looking forward to being able to possibly talk directly to a parent and ask them questions if I'm ever on the fence about what my position is or if there's a question about what really happened and I can gauge body movements, reactions to questions, how they're responding.”

Another said that mediation was the best option for getting this information: “I think that within the process, hearing from the parents, hearing concretely what they think is going on and what happened, all those things, those voices aren't as strong or not as loud as others. So this is a good opportunity to kind of hear from them.”

For social workers, mediation is important, since it is the first time they are meeting the parents. This was stated emphatically by one social worker: “A lot of times, I mean a lot of times, that's the first time that I'm meeting parents.” This, then, is the time to learn more about the family. As another social worker noted: “I think it's an opportunity to be able to hear family dynamics, understand, you know, where everyone is coming from. And to meet...I know I've met parents at mediation.”

A mediator also saw this as a benefit of mediation.

Mediation provides an opportunity to exchange information about the case

Five focus group participants, from all professional groups except the AAGs, saw mediation as providing an opportunity to share knowledge about the case, which, in turn, can help them to formulate better decisions going forward. A GAL noted, “A lot of the times I think we know the most at that stage of the case because we've been to visit the child, we've maybe talked to the school, we've talked to the parents probably, we've talked to the AAG, maybe the ongoing social worker is usually relatively new to the case so we may have talked to relatives, things like that. So it's helpful to share our knowledge with the team.”

Two mediators saw this benefit as well. As one said, “So it's an opportunity to have information be shared, so that when there are decisions made, there are decisions that will actually be helpful and based on reality and not based on assumptions.”

Mediation helps professionals gain the trust of the parents

For three CCAN attorneys, when they are acting as parent's attorneys, mediation is an opportunity to show the clients that they're advocating for them, that they're not part of the government. For two AAGs, mediation is an opportunity to have a conversation in which, as one said they could “reassure them in a way that I can't do other places, that we do want to work to get your kids back.” A CCAN attorney saw this as well, seeing it as a chance to see that everyone is on their side: “I'd say all of my clients have a terrible negative view of everyone. Their attorney, everybody's conspiring against them. So I think it's an opportunity for them to see where everybody really is coming from or supposedly is. That we aren't their enemy. And that, you know, the court in theory has their best interest at heart to reunify them with their children.”

Mediation helps everyone

Four mediators cited benefits that helped everyone equally. These included mediators being able to model good communication, mediators' facilitation helping to “make things happen now,” helping to identify needed services, and providing a forum in which the parties can devise their own solutions.

Problems within Mediation

Perhaps the greatest amount of time in each focus group was spent discussing the problems each group had with the mediation itself. Although most professionals agreed that mediation had a positive impact, they also saw the need for improvement. Their complaints can be grouped into complaints about the process (particularly the amount of time it takes), complaints about other professionals and complaints about mediators.

Complaints about the process

The professionals who participated in focus groups were most notably concerned about the amount of time required for the process, with almost half being frustrated with the time spent waiting for mediation to begin and the length of time spent in mediation. They saw this as imposing significant time constraints on them, since they had to block off three hours for each mediation.

The main reasons the focus group participants gave for the mediation process taking too long are discussed below, in [“Issues with the Program”](#) and [“Complaints about the Mediators”](#). They include participants arriving late, along with other reasons that contribute to the long wait time, and mediators dragging out the process. Beyond these, a few also pointed to the introductory phase of the mediation as time-consuming and unnecessary. In this phase, the mediators explain the process and have everyone sign the agreement to mediate. As the professionals had participated in dozens of mediations, they felt they could skip this aspect of the mediation and instead have the mediator explain the mediation process to the parents alone.

Two mediators also complained about how long the process takes. They were mainly concerned about the long wait time.

A couple of other professionals had other complaints about the process. One said mediation by phone is ineffective. Another said that parental discord is better dealt with outside of mediation.

Complaints about professionals

The complaints that the participants had about professionals focused on lack of preparation before the mediation, late arrival and unwillingness to engage productively in the mediation by either focusing too much on stipulation or refusing to talk about stipulation.

Lack of preparation was the most common complaint among the focus group participants, with 21 of 46 mentioning this. Each group of professionals pointed to the others for not submitting their reports or submitting them on the day of mediation. Parent’s attorneys were criticized for not reviewing the stipulation, for not preparing their clients for mediation and for not meeting with their clients at all before the mediation. AAGs were faulted for not sending the stipulation to the parent’s attorneys before the date of mediation and not touching base with the social workers. Social workers were criticized for not getting on top of services. Mediators noted that they don’t always get the reports they need, particularly pointing to the GAL reports, and also complained about the parent’s attorneys not meeting with their clients until they arrive for the mediation.

While everyone agreed that the parents were more likely to be late than the professionals (a perception not borne out by the data), they also criticized other professionals for being late, and sometimes blamed the parent’s attorneys for not making sure that their clients were on time. Mediators said they don’t

have sufficient time to mediate because parents and professionals are late, and then someone says they have to leave early.

Four CLC GALs and a mediator complained about professionals being entrenched and unwilling to work together. Social workers as a whole complained that no one communicates with them and that they don't receive the other professionals' reports.

The final area of complaints surrounds the discussion. Parent's attorneys were criticized by members of different groups for not being willing to discuss the stipulation, while AAGs were criticized for being too focused on stipulation and not engaging about any other topic.

Complaints about mediators

Members of the focus groups involving AAGs, CLC GALs and CCANs all had complaints about the mediators. In all, 16 focus group participants mentioned issues with the mediators, the most common of which were that they dragged out the process and did not pick up on cues. The AAGs had a number of other complaints, as well.

As the main complaint about mediation was that it takes too long, it's not surprising that the main complaint about the mediators, made by nine of the 37 professionals, was that they drag out the process. Most of those who said mediators dragged out the process thought the mediators spent too much time going over what for them was old ground – topics that they had already discussed in the FTM or for which they felt everyone was already on the same page.

Related to the complaint about going over old ground is the complaint that mediators don't pick up on cues, a complaint cited by five focus group participants. For a few of the focus group participants, this meant that mediators didn't listen to those at the mediation who said that they had already dealt with the topic and did not need to discuss it. However, even among those complaints, the CCAN attorneys understood that the mediators were going over old ground for the parents' benefit, as seen in this exchange:

CCAN 1: "But then you get these repetitive questions. It's like, did you not read? I mean it's sitting right there. Big, bold."

CCAN 2: "Because that's the whole part of giving the parents the..."

CCAN 3: "Yeah. It seems like they have to do that."

CCAN 2: "Right. To empower the parents."

For a couple of focus group participants, the mediators' inability to pick up on cues was leading them to bring up problematic topics: "There are some times when people are trying to signal like, 'Let's move away from that topic, it's going to set us back' ...They [the mediators] want to put an action step, whereas maybe all the parties are sort of on the same page but are trying to not sort of touch the bomb that's going to explode the case." A mediator agreed with this, but blamed it on not having all the reports needed to know what issues should not be brought up.

For one AAG, not picking up on cues is bound up with the mediators not facilitating the discussion about the stipulation, saying, "There are certain mediators that can see that, 'Okay, I think we're moving in the right direction. Let's do a caucus.' So I'll step out and they'll sit and talk to the parent's counsel and then they'll bring me in. But it's rare that that happens where they're paying enough attention to realize,

‘Wait a second. I think I’m seeing a glimmer of hope here. Let me have a conversation with parent’s attorneys.’”

A couple of AAGs each also complained that the mediators coddle parents and are not neutral. That is, they believe the mediators are biased toward the parent. Two CCAN attorneys also said that some mediators allow the parents to vent too much.

WHAT THE PROGRAM DOES RIGHT

Most of the focus group participants had something positive to say about the program itself. By far the most common praise was for the staff and mediators. The participants also appreciated the logistical ease of the program.

Case managers do a good job

Mediators were most impressed by the case managers. They appreciated that they received reports and information about the case ahead of time, and that case managers follow cases after they leave mediation to see if the cases have stipulated.

Two CCAN attorneys appreciated that the case managers matched the mediator’s skill set to the case, while one liked that they contacted the attorneys to get more information:

“They [the case managers] will call me when I’m the GAL. Even when I’m...the parent’s attorney, they’ll say, we’re scheduling this. Can you give me a little bit of background of like what’s going on? What’s your client like? What are y’all trying to accomplish here? They’ll call and try and get sort of an idea for I think the purposes of matching. And sometimes I’ll say, okay, this is a doozy or this is, you know this is what’s going on.”

A CLC GAL praised the case managers’ responsiveness, saying, “I think the staff...who do the response and the scheduling and reminder emails, I think they’re very responsive when you do have questions and when you do reach out.” Two followed that by saying, “I’d give [case manager] and A+.” “Yeah, I love [case manager].”

Mediators are skilled and helpful

Ten professionals praised the mediators, a contrast to the complaints discussed earlier. The praise was sometimes general, as for a CCAN attorney who said, “I think that generally the mediators are very earnest and I almost always get something positive out of mediation.” But more often, they pointed to particular aspects of the mediators that they appreciated.

The social workers particularly appreciated the mediators’ demeanor. When one said, “The mediators are very calm and soothing and patient,” the rest nodded in agreement and another followed up by saying, “Yeah, they’re very skilled.” Along a similar vein, a parent’s attorney stated, “I think the mediators do a good job of making it, trying to create a safe space.”

Mediator impartiality was important to one social worker, who explained, “Yeah, I think it’s good to have somebody who’s not going to follow the case all the way through. Like somebody who’s actually impartial. I’ve heard from parents that that helps. Because, again, we have unfortunately a reputation as baby snatchers. You know, but having a mediator who’s not carrying that I think has been helpful in my experience.” The mediators’ relationship with the parents is important in another way, as well, according to an AAG. It can create rapport with the parent to unearth information and assist in

stipulation: “I think the mediators hit stuff that we didn't know and that doesn't happen much. I have had more than one case where I did not expect there to be a stipulation and whether it was the mediator's effect on the parent – some of the mediators are great. I don't know them well enough to say this one, this one, but some of them are so perfectly matched for the case to reach that person.”

Two attorneys acknowledged that the mediators have improved and have become more flexible in their process and in working with their time limitations.

Scheduling process and stipulation filing are easy

Aside from the good staff and mediators, the professionals liked the ease of the logistics. They pointed to being able to schedule the case when everyone was together at the hearing, the close proximity to the courthouse, and the ease of filing the stipulation directly after the mediation ends as what they appreciated about the program. The one exception to this is the social workers, who are often not involved when the date and time for mediation are chosen. This will be discussed more below.

Other positive aspects of the program

Three professionals liked that the program was mandatory because it forces everyone to come together early on. Three were happy with the three-hour timeframe. One CCAN attorney said that it was fairer than FTM. An AAG appreciated being able to cancel mediation, if needed. Mediators particularly liked getting the reports, especially the GAL report, before mediation.

Issues with the Program

Discussion of problems the focus group participants had with the program were often wound up with questions about what made mediation less successful. Once unwound, it was clear that, for all the focus groups, the main problem with the program was the amount of time mediation took out of their work day. Another significant issue was the difficulty in finding the mediation location. The AAGs' main complaint beyond the amount of time mediation took was that it wasn't necessary. Other issues discussed by the professionals included poor communication and inconsistent application of policy. Mediators wanted better evaluation of their efforts and the ability to provide feedback on the attorneys.

Mediation takes too much time

By far, the biggest complaint made by focus group participants, including mediators, was how much time they must allot for mediation. Their complaints about this had three parts: they had to wait too long for mediation to start, the process itself took too long and, despite this, they still were being asked to block off more time for mediation than they thought was needed.

Wait too long to start

Waiting was a very common complaint. In all, 26 of the 46 focus group participants, comprising all five groups, complained about the amount of time they spend waiting for mediation to start. The social workers and AAGs were most likely to cite this, with seven (of nine and ten, respectively) in each group saying it was a problem. Half the mediators and half the CLC GALs complained about this, as well. CCAN attorneys were least concerned, possibly because of the popular misperception that parents were the most common cause of the late start.

As noted, the most cited reason for mediation being delayed was parents arriving late. However, focus group participants were more frustrated when professionals kept them waiting. One AAG said that

domestic violence screening added on a lot of time, while a GAL noted that the wait time was lengthened by the parent's attorneys' need to confer with their clients, which should have happened before the date of mediation. A mediator blamed the parent's attorneys for not ensuring the parents are on time.

Mediation process takes too long

Fourteen professionals complained about how long mediation itself takes. The social workers made up almost half of these. While most of the complaints were general – they didn't want to spend so much time in mediation – three said that the mediators' explanation of the mediation and everyone's roles was too long. Another three said that mediators going over issues that they had already dealt with elsewhere, primarily the FTM, took up too much time.

Social workers are frustrated by scheduling issues. They are often not at the initial hearing when the mediation is scheduled, so they may have a conflict for the date and time selected by the attorneys. A few social workers said that even when they are at the initial hearing, the attorneys don't take their scheduling conflicts into account when they schedule the mediation. The social workers then must rearrange their schedules in order to attend the mediation. Because mediation takes so long, this places a burden not only on them, but on the other social workers who sometimes have to cover visitations for them.

Three hours is too much time to block off for mediation

Related to the complaint that mediation takes too much time was the issue of whether the requirement to block off three hours for mediation was excessive. Three focus group participants, including a mediator, believed this requirement could be reduced, given that mediation generally took less time. One of these, a CCAN attorney, said that it was hard to find a three-hour block of time that everyone could make within the 30-day deadline. Other focus group participants noted that the three-hour requirement was being informally reduced by the professionals themselves, who didn't always block off the full three hours. The professionals would state at the outset of mediation that they had to leave early, or would sign in saying that they had only blocked off two hours.

Cancellations aren't communicated on time

Related to the issue of spending too much time in mediation is the problem of arriving for a mediation that has been cancelled, which eats up time as well. This was a problem for the social workers and mediators, who felt they were out of the loop when the decision to cancel was made among the attorneys. The problem was seen as two-fold: the attorneys aren't telling the program that they have cancelled the mediation in some instances and when program staff have been told that the mediation has been cancelled, they are either not telling the other professionals and mediators about the cancellation, or are telling them too late. In either case, the issue is lack of communication among all parties involved.

The program is hard to find

In every focus group, there was unanimous agreement that the lack of signage and the placement of the entrance made it very confusing for parents to find the mediation program. There is no sign outside the building denoting what is inside. The door is wooden, with no window, and not marked in any way. Further, it is around a corner where the street is blocked off due to construction. One professional noted that this can be a barrier to family members: "I think there's the physical barrier of just trying to find it. I

mean I certainly felt very confused the first time, but my professional self is like, all right, I'll be fine, but the second time I saw some family members who were confused and I went up to the woman and said, 'Here's the entrance.'" Participants called for better signage to direct people to the mediation program.

Purpose of mediation is unclear

Five focus group participants said that the purpose of the mediation is unclear to them. As a social worker said, "I think there's sort of a lack of understanding about the goals specifically for, especially as a new worker when you're coming in, you don't really know why you're there. You're just required to be there." Three AAGs said they don't understand the purpose because it just appears to be going over areas that aren't pertinent. A mediator also expressed confusion, saying, "And is the criteria for doing well reaching a stip[ulation] or not? I mean, some would consider that – that's the best result, but I don't always feel that way."

Other Issues with the program

The focus group participants had various other issues with the program, each of which was brought up by no more than two people. These include not considering whether the child should be involved in mediation, even when the child asks to be involved; reporting can be redundant, meaning that the professionals have to submit two very similar reports in a short period of time; and the program is inconsistent in the way it addresses domestic violence.

Some believe mediation is not needed

The sentiment of half of the AAGs and two social workers was that mediation is redundant and, for some, a "waste of time." They said that the FTM and other meetings cover all the issues outside of stipulation, and they don't need the mediators to help negotiate the stipulation. They believe mediation doesn't help parents or children, and at times might even be harmful by moving parents away from wanting to sign the stipulation. An AAG gave an example. In one case, she had worked out the stipulation with the parent's attorney while waiting for mediation to begin and wanted to cancel the mediation. Program staff did not allow her to, which frustrated her: "And I was like, 'We're going to lose the stip because the parents are going to get frustrated. They're not going to want to wait.' ... The longer we're in there I think the more frustrated the parents can become."

Professionals' Perspectives on Timing of the Mediation

By court rule, mediation should take place within 30 days of the initial hearing. For the most part, focus group participants said they thought the 30-day deadline was fine. They didn't generally talk about what timing would be too soon or too late, although two said that mediation should not be conducted within ten days of the initial hearing, and another three said that mediation within two weeks was too soon. One said 45 days was too late. Three said mediation shouldn't take place too soon after the FTM.

Professionals prefer mediation to occur around the 30-day mark

Focus group participants showed a preference for mediation to occur close to the 30-day deadline. None stated a preference for an earlier timeframe and none wanted the deadline to be moved much further out. The 30 days allow them to do research, see whether the parent is engaging in services and visiting

their children, and hold others accountable. It also gives parents time to calm down. These sentiments are found in the following:

- “Knowing the practice is so stip-focused, 30 days gives you that little bit more time, especially for GALs to do some more research and to investigate a little bit more. I don’t know if moving it up would allow you to have so much time to be ready to fall into the practice here of being able to go forward with a stip.” [GAL]
- “I think another reason to go against earlier is if it’s too soon you can’t be as firm in holding people accountable. If it is like within a week or ten days of the initial hearing, the agency is going to say, ‘Look, we’ve transitioned social workers. Give them a minute to breathe.’ Where if it’s closer to 30 days it’s like, ‘You’ve had this case now, I know it’s still fast, but now it’s been this many days since you were ordered to fill out a form. How long could that possibly take?’ kind of thing.” [GAL]
- “And generally timing wise it’s about 30 days out from the initial removal. And so by then there is some type of a rhythm to the case. Either they [the parents] haven’t shown up to any of the visits and you’re just now meeting them and you kind of know where you stand. Or they’ve been coming and so there’s a little bit of a better understanding, like people were saying, of who the family is or what’s going on.” [Social Worker]
- “I’ve had attorneys say, ‘Listen, I need documentation to be able to have a conversation with my client. I need to have something tangible to be able to say to them other than what you’ve written in your petition,’ And so I think the more time that we have to be able to at least provide... the investigation summary before mediation [which are due 30 days out], I think that can be very helpful.” [AAG]
- “I don’t think you want to have it too close in time to the hearing when all the shock of the removal and the hearing, if there was a probable cause hearing, then I think spreading it out [is better].” [AAG]

Mediation shouldn’t occur soon after the family team meeting

In three separate focus groups, one person mentioned that mediation is redundant if it takes place soon after the family team meeting (FTM). Because many of the same things are discussed in both the FTM and the mediation, they said, little is gained from the mediation if it happens within days or a week of the FTM. As one parent’s attorney said, “Sometimes an FTM is scheduled in the same week. Within days of the mediation. And although I realize their purposes are different, we’re all coming together to talk about the exact same things. And that can be frustrating.”

Scheduling seems to be the issue. The focus group participants said that mediation and FTM are scheduled too close together when the FTM occurs after the initial hearing, rather than before. This can lead to very tight timing between the two hearings, as an AAG’s experience demonstrated: “Ten days ago, the same day, because our schedules are so crazy...[I went] from FTM to mediation.”

Deadline should not be pushed too far out

On the other hand, none wanted to move the deadline out much further than the current 30 days. CLC GALs in particular noted that mediation kept the professionals focused on the case so that it would continue to move forward between the initial hearing and the pre-trial or disposition hearing. As one said: “I think the benefit of it being 30 days out is that it keeps everybody focused on the case in a way

that if it were like 45 days out or 60 or something crazy then I just think certain actors might not be engaged at all in the case until that point.”

A few AAGs thought that it would be helpful to extend the deadline, but only by a few days: “I think 35 days. I do think it would be nice sometimes to push [the deadline] out a little bit longer, particularly if the trial is another two months past the mediation date, a lot can happen.” This would give them time to assess the parents and to prepare some discovery for the parent’s attorneys.

Other Topics Discussed

Mental illness, domestic violence, substance abuse and companion criminal cases make mediation difficult

The professionals and mediators all noted that some factors make mediation more difficult. These include parents with severe mental illness, domestic violence and/or companion criminal cases. None of these factors were considered by any focus group member to be disqualifying for mediation in themselves. However, they did note that for some cases in which these factors appear, mediation may not be appropriate. These include companion criminal cases in which the underlying allegation is severe, very severe mental illness and severely traumatizing domestic violence.

The CCAN attorneys discussed the difficulties mental illness and substance cause for them in terms of being able to contact their clients, getting them to the mediation and monitoring what they say during mediation. One attorney gave the example of one of her clients, who hadn’t been to the initial hearing, and who wouldn’t meet with her, even when she went to her home, and, according to the attorney, “She [her client] has been saying the craziest things. I don’t think we’d get anywhere. I think it’ll be a waste of time.”

Stipulations get watered down

The AAGs, CLC GALs and social workers noted that there is a tendency for the final agreed upon stipulation to be too watered down. This makes it difficult to later address the underlying issues that brought the children into care and to require parents to get services that address those underlying issues.

Recommendations

Most of the focus group participants provided recommendations for improving the program. Their recommendations can be classified as focusing on changes inside of the mediation session and changes in how the program functions as a whole. Inside the mediation, the professionals’ recommendations focused on limiting time in mediation and ways to emphasize the legal issues and change the discussion. All groups recommended changes to the program that focused primarily on limiting the wait time and enhancing preparation. Mediators also suggested ways to help them more effectively mediate. Not all recommendations made would be feasible or useful. Presented here are those that are worth considering.

Changes inside mediation

The professionals offered a number of suggestions about how to improve the mediation itself. Not surprisingly, the majority of recommendations were about how to shorten the mediation. Most of the recommendations would not be considered best practice for mediation or would serve to make mediation less effective.

The professionals also had a number of recommendations for changing the discussion itself. The main thrust of these recommendations was to more greatly emphasize the legal issues and increase the likelihood of stipulation at mediation. The ones that should be considered are:

- Make sure that mediators leave enough time to talk about stipulation
- Ensure that mediators actively facilitate the stipulation discussion
- Encourage attorneys to discuss the stipulation with their clients at the mediation

Two other recommendations were for more minor changes to the discussion: engage the AAGs more by having them be first to say what their goals for the mediation were, thus hopefully forcing them to contemplate more than just stipulation, and make the mediation more flexible.

The mediators had no recommendations for changing the mediation.

Changes in how the program functions

The focus group participants had many more recommendations for changing how the program works. Again, the largest number of the recommendations concerned ways to limit the amount of time required for mediation. These recommendations came from both professionals and mediators. A second theme for all the focus groups involved ways to improve the professionals' preparation for the mediation.

Reduce time spent for mediation

The professionals were motivated to find ways to reduce the amount of time they spend for the mediation, looking to reduce their waiting time or ensuring that they don't arrive at mediation for a mediation that doesn't end up going forward. At the very least, they wanted to be forewarned that a parent might not show up. The recommendations to be considered in this area are to send out automated reminders to all participants of the mediation date and start time and to let the judge know of participants who do not arrive on time.

There was a certain level of desire for reducing the time required to be blocked off for mediation to two hours. As is discussed in the "[Process Discussion](#)" section, the data does not support doing this.

Improve professionals' preparation for mediation

Given the number of focus group participants who complained about others' lack of preparation, it follows that this would be a subject of many of their recommendations. The professionals recommended enforcing report submission, circulating the stipulation earlier, using an email chain for professionals to let everyone else what their goals for the mediation are and ensuring the parent's attorneys do pre-work.

Mediators wanted to get more information before the mediation date so that they could prepare, particularly the GAL report. They also wanted to be told if the parent has mental health issues.

Enhance mediator facilitation

Nine focus group participants believed mediators should receive additional guidance, including five of the mediators themselves. The mediators wanted to be debriefed after mediation, to have regular opportunities to share and learn from each other, and to get more feedback from participants, particularly what the participants say on the surveys. The professionals believe the mediators would benefit from training on what to address in mediation and how to pick up on cues.

Address scheduling and cancellation issues

Scheduling and cancellations were also addressed in the recommendations. There were two recommendations about scheduling: extend the deadline to allow mediations to be held beyond the 30-day limit and schedule mediations with the parents' schedule in mind. The latter was specifically considering the parents need to pick up their children at school. The recommendations about cancellations are really requests for better communication about when mediations are cancelled. These include devising a system in which cancellations can be communicated to everyone, making sure the mediators know that the mediation has been cancelled, and the parent's attorneys letting everyone know when they think their client will not show up.

Improving mediator experience

Mediators had a few recommendations for improving their experience beyond providing them greater guidance. These included evaluating them on more outcomes than just whether agreement was reached on the stipulation, adding an option "stipulation not offered" to the post-mediation survey and providing tissues. One mediator wanted co-mediation to be reinstated.

Other recommendations

There were a few recommendations that didn't fall into the other categories. Three CLC GALs wanted children to be able to mediate. One social worker wanted the mediator to write up "the to-dos" at the end of mediation.

Finally, four focus group participants strongly recommended putting a sign on the building that lets people know that it is the site for the mediation program.

DISCUSSION

Professionals go into mediation with goals that move the case forward, improve decision-making and help the parents. These goals include obtaining a stipulation or making progress toward it, exchanging information, gaining a better understanding of the parents and the case, improving parent's understanding and providing them voice. These goals indicate they have a sophisticated understanding of what mediation can provide them and their clients. The mediators' primary goal was to facilitate open communication. This creates a safe space for the exchange of information and giving parents voice.

The benefits professionals see align strongly with their goals, indicating that mediation is accomplishing what they want it to accomplish. The one area in which this doesn't appear to be the case is whether mediation helps to obtain a stipulation. Professionals and mediators alike see mediation as providing an opportunity for professionals to exchange information and learn about the families and the case. They also believe it elevates the parents' importance and gives them voice, while also helping the parents to better understand their situation and what they need to do in order to achieve reunification.

Even though mediation is providing the benefits the professionals wish to see, they also see a few issues with mediation. The chief complaint is the length of time it takes, including the time spent waiting for mediation to begin. Other issues include mediators not picking up on cues regarding what they should and should not bring up, and mediators not facilitating discussion of the stipulation.

Professionals generally appreciate that mediation is mandatory, offering an opportunity for them all to be in the same room to discuss the case at a time when movement on the case is helpful and those involved wouldn't necessarily be focused on it without mediation. All the professionals but the social

workers also appreciate the ability to schedule the mediation at the initial hearing. The social workers don't benefit from the ease of scheduling because they are not present for the initial hearing, and thus don't have a say in the date and time of mediation.

On the other hand, the focus group participants almost universally complained about the amount of time they spend waiting for mediation to start. The social workers and mediators were unhappy with arriving for mediation only to find out that it had been cancelled. Some social workers and AAGs were unclear about what the purpose of mediation was.

When asked about when mediation should occur, the attorneys' responses pointed toward a preference of around 30 days. No one wanted mediation within a week, nor did anyone want mediation to occur much beyond the 30-day mark. Their reasons for preferring mediation at 30 days were the need for time to gather information, the need for the social worker to have had time to get some of the services in place and a desire not to have mediation occur too soon after the FTM.

The focus group participants' recommendations include developing better methods for communicating cancellations; ensuring that professionals prepare for mediation, which may require a different and easier method for them to provide the necessary information prior to mediation; providing greater guidance to mediators about how to facilitate the stipulation discussion; and giving mediators more feedback and opportunities to interact throughout the year.

In sum, the professionals see mediation as burdensome, but beneficial. Most believe mediation is providing benefits to the parents and themselves. But, it takes too long, and those involved need to prepare more for the process. Professionals think mediators are skilled and have the right demeanor, but that they need to better facilitate the stipulation and pick up on cues. Mediators themselves would like more feedback and more opportunities to learn from each other.

PARENT SURVEYS

In addition to addressing stipulation, the court has a number of goals for parents who participate in mediation. It should provide a safe venue for them to talk and to understand the court's expectations of them. The open discussion should lead them to feel more comfortable with the professionals involved with their case and to leave the mediation having had an experience of procedural justice, meaning that they felt heard and respected.²⁷ When these happen, the court's goals of increasing parents' satisfaction with the court process and reducing in-court time are likely to be realized.

To assess whether these benefits are accruing to the parents, a post-mediation survey was included as part of the evaluation process. The parents' responses were overwhelmingly positive, indicating that they gained the benefits envisioned for them. The vast majority of parents who completed the surveys said that they felt that they were treated fairly and with respect, and that the mediator understood them. Their responses indicated that they felt they had voice and that they gained a greater understanding both of the points of views of the others at the mediation table and of what they needed to do next. Most parents also believed mediation was helpful to them.

The parents' survey responses indicate that mediation is providing them with a positive experience and that they are overwhelmingly getting the benefits mediation is supposed to provide them.

Given the above, it's not surprising that the parents were satisfied with the process and outcome. They were most satisfied with their mediator.

Method

At the end of each mediation that was held from April 1, 2017, through October 31, 2017, parents were asked to complete a paper survey regarding their experience. The first page asked four questions required for end of year Multi-Door Dispute Resolution Division reporting: satisfaction with the process, satisfaction with the outcome, satisfaction with the mediator and whether an agreement was reached. The second page was specific to the evaluation and asked a series of questions that delved into greater detail about their experience. The questions were structured around the themes of understanding, how they were treated, and their sense of whether mediation was helpful.

The surveys were scanned and uploaded to a secure cloud-based folder that was shared with the evaluator. From there the surveys were read into Remark, optical mark recognition software, for analysis.

²⁷ [See p. 24](#) for a thorough explanation of the importance of procedural justice.

Data

In all, 84 of 139 parents who participated in mediation during the study period submitted surveys. This is a 60% response rate. Of the 139 parents who participated, 18 participated by phone, and therefore were not available to complete the survey. Of the on-site parents, 69% completed the survey. The surveys covered at least 80% of the mediations. (A few of the surveys did not have case numbers associated with them; therefore, it was not known which cases they were associated with, nor how many they accounted for.)

Of the 84 parents who completed the survey, 49 (58%) were mothers, 33 (39%) were fathers, one was a guardian and one was a grandmother.

Although the 60% response rate is not ideal, this percentage is generally considered sufficient to draw the conclusion that the respondents are representative of the total population. That is, if every parent who participated in mediation responded to the survey, the results would be similar.

PARENTS' RESPONSES

Parents' Satisfaction

The survey included three questions the Multi-Door Dispute Resolution Division uses to assess parents' satisfaction with their mediations. These asked parents if they were satisfied with the process, with the outcome and with the mediator. A fourth question to assess parents' satisfaction was added for the evaluation, which asked if they would recommend mediation to other parents. The parents' responses indicated that they were by and large happy with their experience in mediation. When measured by the mean of responses, parents were most satisfied with the mediator and least satisfied with the outcome. However, all means were above 4.0 on a 5-point scale.

More than 3/4 of parents were satisfied with the mediation process

This question begins with a statement of what mediation should offer:

- open discussion of issues with the other party
- fairness
- appropriate amount of time to be heard
- freedom from pressure or coercion

The parents were then asked, "Given these concepts, how satisfied were you with the mediation process?" The response options were a 5-point scale from very dissatisfied (1) to very satisfied (5), with a mid-point of "neutral" (3).

Of the 78 parents who responded to this question, 61 (78%) said they were satisfied with the mediation, with 37 (47%) saying they were very satisfied. Only four were dissatisfied. The other 13 (17%) were neutral.

Almost 3/4 of parents were satisfied with the outcome

This question begins with a description of what an outcome of mediation could be:

- a full or partial agreement
- an outcome satisfactory to all parties
- a better understanding of the other person's concerns

- better communication between you and the other person

The question concludes, “Given these concepts, how satisfied were you with the outcome of mediation?” The response options were a 5-point scale from Very Satisfied to Very Dissatisfied, with a mid-point of “Neutral.”

Of the 83 parents who responded, 61 (73%) said they were satisfied with the outcome, with 33 (40%) being very satisfied. Only three were dissatisfied. A relatively large number, 19 (23%), were neutral.

The fact that so many parents were satisfied with the outcome when only about a quarter ended with a stipulation indicates that they feel they are getting more out of mediation than an agreement. They were, however, less positive about the outcome than their experience in mediation overall.

Parents were more likely to be satisfied with the outcome if they reached agreement.

Parents were asked on the survey if they “reached a written agreement.” In this context, an agreement is a signed stipulation. Analysis of the survey responses indicated that when parents said they reached agreement, they were more likely to say they were satisfied or very satisfied with the outcome of the mediation. This indicates that they felt good about stipulating, and didn’t feel coerced into agreeing to facts they didn’t believe were true.

Almost all parents were satisfied with the mediator

This question begins with an explanation of what mediators are expected to do:

- Explain the mediation process
- Explain their role in the mediation process
- Allow you to fully explain your issues
- Understand the issues involved
- Gain your confidence
- Favor neither party
- Help you to look at different ways to resolve the issues

The question ends by asking, “Given these concepts, how satisfied were you with the mediator’s performance?” The response options were a 5-point scale from very satisfied to very dissatisfied, with a mid-point of “neutral.”

Of the 81 parents who responded to this question, 75 (93%) said they were satisfied with the mediator. Only one was dissatisfied. The other five were neutral.

About 3/4 of parents would recommend mediation to other parents

As another measure of satisfaction, the survey asked parents whether they would recommend mediation to other parents. They had three options: yes, maybe, no. In all, 58 of 80 parents (73%) said they would, while another 20 said “maybe.” Only two said they would not.

Parent Satisfaction				
How satisfied were you with the mediation process				
Response	#	%	Mean: 4.21	
Very Satisfied	37	47.4%	<div></div>	
Satisfied	24	30.8%	<div></div>	
Neutral	13	16.7%	<div></div>	
Unsatisfied	4	5.1%	<div></div>	
Very Unsatisfied	0	0.00		
How satisfied were you with the outcome of the mediation?				
Response	#	%	Mean: 4.08	
Very Satisfied	33	38.8%	<div></div>	
Satisfied	28	32.9%	<div></div>	
Neutral	19	22.4%	<div></div>	
Unsatisfied	2	2.4%	<div></div>	
Very Unsatisfied	1	1.2%	<div></div>	
How satisfied were you with the mediator's performance?				
Response	#	%	Mean: 4.44	Median: 4.44
Very Satisfied	43	53.1%	<div></div>	
Satisfied	32	39.5%	<div></div>	
Neutral	5	6.2%	<div></div>	
Dissatisfied	1	1.2%	<div></div>	
Very Dissatisfied	0	0.0%		
Would you recommend mediation to other parents?				
Response	#	%	Mean: 2.70	Median: 2.70
Yes	59	72.8%	<div></div>	
Maybe	20	24.7%	<div></div>	
No	2	2.5%	<div></div>	

Parents' Experience of Voice

One of the most important benefits mediation should provide in any setting is giving voice to those who may not feel they have it. Giving parents voice in child protection mediation – allowing them to present their point of view, discuss their concerns, and feel that others are listening to them – has been found to involve them more in the case, reducing their feelings of isolation and powerlessness, while also increasing their understanding of their case plan and their willingness to follow it.²⁸ Further, giving parents voice can increase the amount of information available to all involved in the case, thus allowing for better decisions to be made about the families' needs and the placement of the children.²⁹

²⁸ Thoennes, N. *Mediation and the Dependency Court: The Controversy and Three Courts' Experiences*, FAMILY AND CONCILIATION COURTS REVIEW 29: 248-249 (July 1991).

²⁹ Thoennes 1991, 249.

To find out if parents felt that they had voice, the survey asked them three questions:

- Were you able to talk about the issues and concerns that were most important to you?
 - Response options: all, most, some, none
- Did the mediator understand what was important to you?
 - Response options: 5 (very much), 4, 3 (somewhat), 2, 1(not at all)
- Did the other people at the mediation understand what was important to you?
 - Response options: 5 (very much), 4, 3 (somewhat), 2, 1(not at all)

The parents' responses indicated that most did, indeed, feel they had voice.

Almost 90% of parents were able to talk about all or most of their issues and concerns

In all, 87% of parents said they were able to talk about all or most of the issues and concerns that were most important to them. Two-thirds (48 of 73 parents) said they were able to talk about “all” of their issues and concerns, while another 17 (23%) said they were able to talk about “most” of them. The other eight (11%) said they only were able to talk about “some” of their issues and concerns. None said they weren't able to talk about any of them.

It is clear that parents who come to mediation feel they are being given the opportunity to talk – the first half of what is necessary for them to have voice.

Almost 90% of parents felt understood

The parents overwhelmingly believed the mediator understood what was important to them, with 72 of 82 (88%) saying so. Of these, 56 responded with a 5 (very much) and 16 with a 4. Ten (12%) said the mediator “somewhat” understood what was important to them, responding with a 3. No one responded with a 1(not at all) or 2, indicating that all parents thought the mediator understood at least somewhat what was important to them.

The parents were only slightly less confident that the other people at the table understood what was important to them. Of the 72 parents who responded to this question, 59 (82%) said the other people understood them. Of these, 39 responded with a 5 (very much), and 20 with a 4. Ten (14%) responded with a 3 (somewhat). Only three said the other people at the table did not understand them, responding with a 1 or 2.

The parents' responses show that most parents are feeling understood by both the mediator and the professionals. Combined with their belief that they were able to talk about what was important to them, this indicates that mediation is achieving the very important goal of providing parents with voice.

Parents' Experience of Voice			
Were you able to talk about the issues and concerns that were most important to you?			
Response	#	%	Mean: 3.55
All	48	65.8%	
Most	17	23.3%	
Some	8	11.0%	
None	0	0.0%	
Did the mediator understand what was important to you?			
Response	#	%	Mean: 4.56
Very much	56	68.3%	
4	16	19.5%	
Somewhat	10	12.2%	
2	0	0.0%	
Not at all	0	0.0%	
Did the other people at mediation understand what was important to you?			
Response	#	%	Mean: 4.31
Very much	39	54.2%	
4	20	27.8%	
Somewhat	10	13.9%	
2	2	2.8%	
Not at all	1	1.4%	

Increased Parental Understanding

In the child protection context, mediation should not only provide parents with the sense that they have been understood, but also with a greater understanding of their situation and the points of view of others at the mediation. This understanding has been shown to improve compliance with services and may increase trust in others. The survey explored this with three questions:

- Did mediation help you to understand the point of view of the other people at the table?
- Do you understand better what you need to do next than you did before the mediation?
- Do you know when you will be visiting your child(ren) next?

The response options for the three questions were: 5 (Very much), 4, 3 (Somewhat), 2, 1 (Not at all)

In their responses to the three questions, the parents overwhelmingly believed that they gained understanding through the mediation. Most importantly, they believe that they are gaining greater clarity about what others are thinking and what their responsibilities are going forward. In theory, both of these should help with compliance with services.

9 in 10 parents felt they understood the point of view of the others better

Of the 71 parents who responded to this question, 64 (90%) felt that the mediation helped them to understand the point of view of the other people better, responding with a 4 or 5 (very much). Another six were less confident, saying they understood “somewhat” better, responding with a 3. Only one felt they didn’t gain any understanding of the others’ points of view.

This question had a high non-response rate. Nevertheless, even taking into account all the parents who completed at least part of the survey, but not this question, 76% of all the parents surveyed felt that mediation helped them to understand the perspectives of the other people at the mediation.

79 of 82 parents said they better understood what they had to do next

Almost all parents who responded – 79 of 82 – believed that they better understood what they had to do next as a result of mediation, with 72 (88%) responding with a 4 or 5 on the 5-point scale. Of these, 57 said they “very much” understood better (responding with a 5), and 15 responded with a 4. Seven (8%) said they understood “somewhat” better (3), while only three said that they didn’t understand what they had to do next any better (responding with a 1 or 2).

Another way of interpreting the results is what the mean for the responses is, given the 1-5 scale. The mean of the responses was 4.5. This demonstrates that parents largely believed they were learning a lot in mediation.

Almost 3/4 of parents said that they knew when they were visiting their child

The parents were also asked whether they knew when they were next going to visit their children. This question does not necessarily indicate that mediation helped them understand, since many knew before mediation, but if the parents answered in the negative, it would indicate that mediation did not lead to either greater understanding or resolution of the question of visitation. Their responses indicated that most clearly understood when they were next going to be seeing their children, with 50 of 69 (72%) responding with a 4 or 5 (very much). Another eight indicated some uncertainty, saying they “somewhat” knew.

Eleven of the 69 parents (16%) who responded said they didn’t know when they were going to be seeing their children next. It did not indicate that they did not understand what was happening in mediation, however. In none of these cases did the mediator and/or professionals state that visitation was added or changed for those parents who said they didn’t know when they would be seeing their children next. Therefore, the reason the parents did not know when they were next going to visit their children could be that the visitation schedule was still being worked out, as was the case for a couple of mediations that were observed.

Parents' Understanding			
Did mediation help you to understand the point of view of the other people at the table?			
Response	#	%	Mean: 4.52
Very much	46	64.8%	
4	18	25.4%	
Somewhat	6	8.5%	
2	0	0.0%	
Not at all	1	1.4%	
Do you understand better what you need to do next than you did before the mediation?			
Response	#	%	Mean: 4.50
Very much	57	69.5%	
4	15	18.3%	
Somewhat	7	8.5%	
2	0	0.0%	
Not at all	3	3.7%	
Do you know when you will be visiting your child(ren)?			
Response	#	%	Mean: 4.07
Very much	42	60.9%	
4	8	11.6%	
Somewhat	8	11.6%	
2	4	5.8%	
Not at all	7	10.1%	

Parents' Feelings about How They Were Treated

At a minimum, those who participate in mediation should feel they are treated fairly and with respect while in the mediation. The parents were asked three questions to determine whether the mediations were meeting this requirement:

- Did the mediator treat you with respect?
- Did everyone at the mediation treat you with respect?
- Did the mediator treat you fairly?

The response options for the three questions were: 5 (Very much), 4, 3 (Somewhat), 2, 1 (Not at all)

The parents' responses indicate that they overwhelmingly felt they were treated fairly and with respect. All felt the mediator treated them that way, and as importantly, only two did not feel the professionals at the table treated them with respect. When combined with their overwhelming experience of voice, this means that mediation is providing parents with an experience of procedural justice, one of the most important aspects of a party's experience with the justice system.

All parents felt the mediator treated them with respect

All 81 parents who responded to the question believed that the mediator at least somewhat treated them with respect, with 70 (86%) saying the mediator treated them "very much" with respect, responding with a 5, and another seven (9%) responding with a 4 on the 5-point scale. This means that

of the parents who responded, 95% believed the mediator treated them with respect. Just four were less sure, saying the mediator treated them “somewhat” with respect, responding with a 3.

The overwhelmingly positive response to this question is perhaps best viewed in the context of the mean response. On the 5-point scale, the mean of the parents’ responses was 4.8, which reflects the high number of parents saying the mediator treated them “very much” with respect.

68 of 73 parents felt everyone at the mediation treated them with respect

The parents were only slightly less likely to say everyone at the mediation treated them with respect than they were to say that the mediator did. However, they were more likely to say the mediator treated them “very much” with respect than the others at the mediation. Of the 73 who responded, 57 (78%) said the others treated them “very much” with respect (as opposed to 86% who said the mediator treated them “very much” with respect), while another 11 (15%) responded with a 4. Three were less confident, saying the others “somewhat” treated them with respect (responding with a 3), while two felt they were not respected by the others at mediation, responding with a 1 or 2.

This question asked whether “everyone at the mediation” treated them with respect, so a response less than 4 may indicate they felt that some, but not all people at the mediation treated them with respect, rather than everyone not treating them with respect. This was how one mother who was interviewed interpreted the question.

All parents felt the mediator treated them fairly

All of the parents who responded believed they were at least somewhat treated fairly by the mediator. The vast majority, 66 of 70 (94%), believed the mediator treated them fairly, responding with a 4 or 5 (very much) on a 5-point scale. Of those, 58 (83% of all respondents) believed the mediator treated them “very much” fairly, while eight responded with a 4.

Four (6%) were more equivocal, saying the mediator treated them “somewhat” fairly, responding with a 3. No parents responded with a 1 or 2.

Parent Experience of Procedural Justice				
Did the mediator treat you with respect?				
Response	#	%	Mean: 4.81	
Very much	70	86.4%	<div></div>	
4	7	8.6%	<div></div>	
Somewhat	4	4.9%	<div></div>	
2	0	0.00		
Not at all	0	0.00		
Did everyone at the mediation treat you with respect?				
Response	#	%	Mean: 4.67	
Very much	57	78.1%	<div></div>	
4	11	15.1%	<div></div>	
Somewhat	3	4.1%	<div></div>	
2	1	1.4%	<div></div>	
Not at all	1	1.4%	<div></div>	
Did the mediator treat you fairly?				
Response	Count	Percent	Mean: 4.77	Median: 4.77 Deviation: 0.54
Very much	58	82.9%	<div></div>	
4	8	11.4%	<div></div>	
Somewhat	4	5.7%	<div></div>	
2	0	0.00		
Not at all	0	0.00		

Other Outcomes

The parents were asked two final questions that were more global in nature. These explored whether they felt mediation was helpful to them and whether they trusted the others at the mediation wanted what was best for their children. Almost all responded very positively to these questions.

79 of 82 parents felt mediation was helpful to them

Of the 82 parents who responded to the question about whether mediation was helpful to them, only three said it was not. Of the other 79, 68 (86%) responded with a 5 (very helpful) or 4. Eleven (13%) said it was “somewhat” helpful (responding with a 3).

68 of 71 parents trusted that the professionals wanted what was best for their child

Almost three quarters of parents trusted unequivocally that the professionals wanted what was best for their child. Only three parents did not trust that the people around the table wanted what was best for their children. A good number of the 71 who responded – 17 – were less sure, saying that they somewhat trusted the professionals. The 51 others answered with a 5 (very much) or 4. Thus, 72% of the parents who responded to this question trusted that the professionals wanted what was best for their child.

Despite the low number of negative responses, the mean for this question is the lowest of all the questions asked of the parents, at 4.1. This reflects the high number of “somewhat” responses, indicating a certain wariness on the part of a relatively large number of parents.

The question didn't measure whether their trust in the other people around the table increased due to mediation, only whether they were leaving mediation feeling they could trust them.

Responses by Role

When the parents' responses were separated between mothers and fathers, the data indicated that they are having a similar experience in mediation. Their levels of satisfaction and understanding, their experience of voice, and their feelings of being respected and treated fairly were about the same, although almost across the board, fathers had slightly more positive responses than mothers. Mothers were more likely to say they were able to talk about their issues and concerns, that the professionals treated them with respect, and to believe that the professionals want what is best for their children. For every other question, fathers responded more positively. In every case, the difference was slight.

	Mean of Responses	
	Mother	Father
Satisfaction with the process	4.17	4.31
Satisfaction with the outcome	4.06	4.16
Talk about issues and concerns	3.60*	3.54*
Mediator understood	4.66	4.52
All understood	4.28	4.37
Mediator treated with respect	4.77	4.94
Professionals treated with respect	4.70	4.61

*This question was on a 4-point scale; all others were 5-point.

Parents' Comments

The parents were asked the open-ended question "What new thought or idea are you leaving with?" Only 26 of 84 parents answered this question. Of those, five said that they were not leaving mediation with any new ideas. All but one of the 21 others had positive comments.

Focus on the children

Ten parents wrote of their children, mostly of their need to do everything they can to get their children back. The quotes include:

"My thought that I'm leaving with is that the children are most important to all parties involved."

- "To continue to fight for my child." (Mother)
- "Do whatever it takes to get my son back." (Father)
- "That I love my child and wish her the best." (Mother)
- "Improving myself and giving my daughter the best life!" (Mother)
- "To do everything and more I need to do to get my child back." (Mother)
- "Just doing everything needed to get my kids back." (Mother)
- "Do what I got to do." (Father)
- "I just want my baby with her mother and father. My thoughts are good and I feel that her team is going to help us get her back." (Father)
- "My thought that I'm leaving with is that the children are most important to all parties involved. That we will do whatever to obtain custody of our children." (Mother)

Improved understanding

A few parents gained insight or understanding that could help them as their case proceeds through court:

- "A better understanding on the issue at hand." (Father)
- "Always stay calm and keep a cool head." (Father)

- “When my son is returning home and what is expected of me when he is with me.” (Mother)
- “I will be waiting a lot longer than I planned to have my son in my custody.” (Father)
- “Just having [my daughter] in my care. Get my own place and take care of my daughter. If there is ever a problem I have Mr. [T] and Ms. [C].” (Father)

General positive thoughts:

Others left with general thoughts that indicated they were leaving feeling positive:

- “Mediator is sweet.” (Mother)
- “I am satisfied with mediation.” (Mother)
- “A great outlook on things.” (Father)
- “Good thoughts.” (Mother)
- “Communication overall is okay. So is detail.” (Mother)
- “Positive” (Father)
- “God bless us all.” (Father)
- “Mediation can be beneficial for parties involved.” (Father)

General negative thought:

For one mother, mediation revealed that she couldn’t trust at least one person at the mediation: “Don’t trust people that say they’re on your side.”

DISCUSSION

The parents’ survey responses indicate that mediation is providing them with a positive experience and that they are overwhelmingly getting the benefits they are supposed to be getting from mediation. They are having an experience of procedural justice, as defined as having voice and being respected, which is one of the most important components of their experience with the justice system. They are also gaining a greater understanding of both others and of what they need to do next, one of the main goals of mediation.

Mediation appears to increase or, at minimum, support the parents’ positive view of the professionals involved in their case. Most felt they understood the professionals’ points of view better, felt respected by the professionals, and trusted that the professionals wanted what was best for their children. The mediators were viewed positively as well, with all parents believing the mediators understood them, respected them and treated them fairly.

Given these responses, it’s not surprising that most of the parents were satisfied with the mediation and the mediator. Almost all believed it was helpful to them and most would recommend mediation to other parents. The parents’ comments, as well, indicated that they were leaving mediation with a positive outlook. All of this demonstrates that the court’s goals for the parents are being achieved in mediation.

PARENT INTERVIEWS

Parents were interviewed in order to get richer information about their experience in mediation. Almost all parents who were interviewed had a positive response to the mediation and the people involved, seeing it as helpful to them. Their impression of the mediation appeared to be related to how they felt they were treated in the mediation and whether they felt they were being supported by those involved in their case. While most said mediation didn't change their views, it did serve to support the ones they already had, leaving them feeling that mediation was helpful, informative and effective.

Method

Only parents whose mediation the evaluator observed were invited to be interviewed. Before mediation, the case manager asked the parents and their attorneys if they would be willing to speak with the evaluator about being interviewed after the mediation. Those who agreed were shown into a separate room to meet with the evaluator. If more than one parent was present, each met separately with the evaluator, in the presence of their attorney. The evaluator explained the evaluation, the purpose of the interview, the benefits and risks, and that the interview was voluntary and confidential. They were also told they would be compensated \$20 for the interview. If they agreed, the parents signed a consent form. The parents were also asked if they agreed to be recorded. Only two did so.

Almost all the parents had a positive response to mediation. Those who were most positive were happy about the support they received from the professionals at the mediation, their greater clarity about the process going forward, and the chance to express themselves and be heard.

After mediation, the parents met alone with the evaluator,³⁰ who conducted a semi-structured interview that lasted from 15 to 40 minutes. The evaluator took notes during the interview and coded the parents' responses. (See [Appendix C](#) for the interview protocol.)

Data

Eleven of the 29 parents involved in the observed mediations were interviewed, with one ending the interview early. Of the others, four parents participated in the mediation by phone and two others were late to the mediation, so they could not meet with the evaluator prior to the mediation. These six were not invited to be interviewed. Two consented but did not end up being interviewed, one because she had to leave; the other because she changed her mind. Ten did not consent.

³⁰ The parent's attorneys were told they could attend the interview, but all of them declined the option.

Of those who were interviewed, seven were mothers and four were fathers. In two cases, both the mother and father were interviewed individually. Therefore, the interviews covered nine cases. The nine cases were mediated by six different mediators.

The children had been removed from nine of the parents, and the allegation against nine of the parents was neglect, including drug use, educational neglect and medical neglect. The other two had allegations of physical abuse against them. Half of the parents had previously been involved as parents in the child welfare system.

INTERVIEW TOPICS

The interview asked parents their views on mediation and those involved:

- Their overall impression of the mediation
- What they knew about mediation beforehand, and how they felt about being referred
- How they felt about the mediation itself – the decisions made, whether they were listened to and how they felt about speaking up for themselves.
- How they saw mediation affecting their future – did things change for them, how they felt about the changes, how they felt about the people involved and how they viewed their future.

THE PARENTS' VIEWS

Parents tended to arrive at mediation with no real expectations, although a few were nervous, scared, or dreading the process. When they felt supported in the mediation, they left feeling elated, happy to have participated, and saw a more positive future for themselves. Having an experience of voice – believing that others were listening to what they had to say – was an essential part in their feeling supported by those in the evaluation and, therefore, highly influenced how happy they were at the end of the mediation. Regardless of how they felt about the mediation, they were hopeful for the future.

Overall Impression of Mediation

Nine of 11 parents had a positive view of the mediation, with five being highly positive. Two had a neutral response. Those who were highly positive were involved in mediations in which they felt they were supported, that they gained clarity and that they had voice.

Two parents felt an increase in support by those involved in their case. One mother said, “The meeting was necessary and helpful. I felt a lot of support, that everyone was with me...I’m glad it happened. I’m glad to have support...Everyone was fighting for me and about keeping my children at home and making sure they get the best of services. It was a very positive experience.” A father was pleased about the help he believed the mother would get, saying that mediation helped a lot because the mother would get new housing and his child would come home.

“Everyone was
fighting for me and
about keeping my
children at home.”

Clarity was the reason two mothers were happy with the mediation. One felt more confident about the process going forward. She had been confused as to why she was being brought into court. But mediation, she said, “went well. I feel more secure with the whole process and what will be going on...Mediation was very, very informative. Very.” Another mother had similar thoughts. She said

mediation was okay, that it helped a lot because “I got more information about what’s happening in the future.”

For three parents, the mediation provided a forum for being understood. One mother felt particularly heard in mediation, saying it was very helpful because “I got to express how I felt about certain things and what I’d like to happen.” Another said, “I think it was pretty good. We got to communicate and share opinions. It was very informative.” A father saw a change from focusing only on the mother. He said that the people at the mediation “hit every point that needed to be hit. The system is for the mother, but then [the mother’s attorney] spoke up and said they needed to help fathers. That made me feel good because at court she seemed to be against me, but now I feel she understood me.”

Two parents were vague about why they felt good about the mediation. One said it was efficient and effective. The other said she “feels pretty good” and just wanted to go back to school, get a job and she can do that as soon as the Child and Family Services Agency is out of her life.

The two parents who said they had a neutral reaction to mediation were responding to the sense that they were not being supported and were being forced to do things they did not want. One said he felt pressured by the AAG to sign the stipulation, that even though he said no multiple times, he still felt pressured by her “word play.” The other said he went through a number of emotions in mediation. Earlier in the interview, he had expressed frustration with the guardian ad litem (GAL) for pressing for therapy for his child.

Referral to Mediation

The parents in general understood vaguely what was going to happen in the mediation. Mainly, they knew they were going to have a discussion. For some, this discussion was about how to get their children back. Others didn’t know what would be discussed. Two said they didn’t know what mediation was at all.

They learned what would happen in mediation from a variety of sources. Most learned about it from their attorneys. Others learned about it from the social worker, their previous experience with mediation in other contexts, or their own research. (As one mother said, “I Googled it.”) One said she huddled with the entire team after the initial hearing.

The parents’ feelings about going to mediation were mixed. Six of the 11 said they felt “neutral,” “fine,” “nothing,” or some permutation of these that indicated that they had no real emotional response to the idea of mediation. Two were nervous or scared. One was confused about why she had to be a part of the process at all, and later said that she woke up dreading it. Two didn’t answer the question clearly.

Perspectives of Mediation³¹

The parents were asked a number of questions about how they felt about the mediation. These included whether there were any differences between what they had experienced in the family team meeting (FTM) and court and what they experienced in mediation, what they felt about the decisions made in mediation, whether they felt they had voice, how they felt about the others at the mediation, and whether they would have changed anything. Almost all parents were positive about their experience

³¹ From this point on, ten parents responded to the questions.

and those who saw differences between the FTM and the mediation saw mediation as more helpful to them.

The majority of parents saw mediation more positively than FTM

Six of the parents saw differences between the FTM and mediation. Three felt they were the same, while one had no previous experience because he had not attended the FTM. One did not answer the question clearly.

The six parents cited various differences between the FTM and mediation. Two said they were able to talk more and talk more openly, with one of them citing the confidential nature of mediation. Two said that the professionals were more helpful in mediation. One, a mother, said that in the FTM, “there was a lot of arguing and it seemed like they wanted to do bad things to me.” In mediation, the people wanted to help her. A father said that mediation was different because it concentrated on the mother and him equally. To him, the system was for the mother, but mediation focused on his needs. A mother said mediation was more about the court process, while FTM was about what the child needed. Much of her mediation was spent discussing why she was having to go through the court process and how a specialty court could help her.

Parents were positive about the decisions made in mediation

The parents also had mixed feelings about the decisions made in mediation. Three felt really good about them. Two felt okay about them. Two were still processing them. One just wanted to cooperate, and one did not like them. Two didn’t answer.

Those who felt good about the decisions had been offered new services for themselves and/or their children, and believed that these services were going to help them get their children back. This was also true for one who felt okay about the decisions. The one who didn’t like the decisions made in mediation was upset that her child was removed and no decision made in mediation would result in her child coming back as soon as she wanted.

Most parents had an experience of voice

The parents were asked two questions about whether they felt they had voice:

- How much were your ideas listened to in mediation?
- How did you feel about speaking up for yourself in mediation?

Half of parents felt they were very positive about how much they were listened to in the mediation, saying they were listened to “a lot,” “100%,” or “fully.” One said he was listened to “pretty much.” Another said the mediator listened, but the social worker and GAL were just trying to talk about things they wanted him to agree on. A mother said that most listened to her, but that the GAL kept interrupting her. Another mother said that she didn’t know if they were listening to her. She said, “Everything I need to do for them I have to do, but they’re not doing what I need them to do.” When asked what that was, she said she has been waiting for housing for months. One father didn’t talk at all during the mediation.

Everyone said they felt comfortable speaking up for themselves. One said, “It felt good. It was the first time I got to sit down with everyone and let them know what I felt and what I wanted for my child.” Only one indicated any difficulty. She said she was initially nervous “because I’m not used to having the spotlight. But I became more comfortable with it throughout the meeting.”

Parents who felt supported had a more positive experience

Four of ten parents were very positive about the people at the mediation. They felt supported and respected, as summed up by a mother: “I felt cared about and supported.” Another said she felt good about how they treated her in mediation. They treated her with respect and listened to her. Still another said that after talking with everyone, she believed they do genuinely care about her and her child.

“I used to feel it was me against them. Now I feel like we’re all a team for my child.”

Of the other six parents, three said something akin to “the professionals were just doing their job.” One said that everyone was okay; she didn’t have anything bad to say about them. Another appreciated some of the people around the table, but not others. One demonstrated the importance of being treated with respect; she was upset because no one stood up for her when the GAL was rude to her.

Mediation changed the parents’ opinion of the other people at the table for only two parents. Those two saw them more positively. One, a father, said that at mediation the AAG made eye contact with him for the first time, and acknowledged him. He appreciated that they were able to have a conversation. The other, a mother, said that the mediation made her more comfortable with the AAG, social worker and GAL. She said, “I used to feel it was me against them. Now I feel like we’re all a team for my child.”

The other eight parents said their opinion about the others had not changed due to the mediation. Of these, three had had a positive view of them before mediation, four had had a more neutral opinion, and one parent’s slightly negative view of the others at the mediation was not changed.

Eight of ten parents believed the professionals wanted to do what was best for their child. Of these eight, six were emphatic in their response, responding with statements like: “Yes, oh yeah. No question,” and “Yes, yes, yes, yes.” The two who did not outright state that they believed the professionals wanted what was best for their child were more neutral, with one saying “I hope so. I’m not sure.” The other believed some did and some didn’t.

What the parents would have changed

Only one parent said they would have changed anything about the mediation. This mother was upset that the father’s attorney had to leave and told the father not to say anything in his absence. She said, “I know that [Father] had things he wanted to say, but couldn’t.”

One mother, when asked if there was anything she would change about the mediation, said, “No. I like the way it went. It went very, very well.”

Impact of the Mediation

The parents were asked a series of questions about what they thought came out of the mediation, including questions about their understanding of visitation and their views on any changes made in mediation, their understanding of what they needed to do and their views on any changes made in mediation regarding this, and their views of the future. Their responses were largely positive and hopeful about the future. They almost all said their hopefulness preceded mediation: for almost all of them mediation did not change how they saw the future.

Visitation, services and responsibilities

Visitation was set for all but one parent before mediation, and all of those parents for which visitation was set knew what the schedule was. The parent for whom a visitation schedule wasn't set did not see any progress during the mediation. The question of whether visits were to be supervised or unsupervised remained unresolved. For only one parent was visitation changed during mediation. This happened with a father, who was happy to have had his visitation increased.

Most of the parents were accepting of their visitation schedules, saying something along the lines of "I have to be okay with it." One said she was able to create it, so it suited her well. Another, however, said that schedule made it hard for her to take care of her other children.

Seven of the ten parents said they had talked about the services they would receive and their responsibilities sometime prior to the mediation, most at the FTM or in court, and all of those who did understood what they needed to be doing based on those conversations. Three said they had not yet talked about services before the mediation. Two of them had not yet participated in an FTM. The other had services set in place, making it unlikely that he had not talked about services previously.

For six parents, mediation led to changes in the services being offered to them and/or their children. One mother learned she was being referred to Family Treatment Court.³² Another found out about her possible referral to HOPE Court.³³ These two were very happy about these referrals, which gave them more hope about the future. Two other parents found out about new supports being provided to their families: an education advocate for the children of one parent and help in obtaining job training for another. These parents, too, were pleased with what was being offered. One parent, however, was upset about the therapy being requested by the GAL for her child.

In an indication of their trust in the professionals, nine of the ten parents believed that if they did what the professionals asked them to do, things would be better for them in the future. They saw themselves getting jobs to support their family, getting counseling to help them care for their children, getting sober, growing up and reunifying with their children. The one who did not believe doing what she was asked would improve her future said that she didn't think she would get back her child, even if she did everything, because "they" took her child in a sneaky way.

Mediation changed four of the parents' views on this, indicating that for six, their trust in the professionals was already present before mediation. For the other four, mediation improved their views of the professionals and their own future. One said she felt more "confident and more secure that things will get better." Another said "Yes, they're doing what they said they were going to do, so I trust them."

Despite their situation, all the parents were hopeful about the future. They saw stronger bonds with their children, a positive future, a future of "joy and happiness." One saw a time when he could look back and say "we came through the fire together." A mother said, "This happened to show me I need to grow up."

³² Family treatment court is a specialized court for parents with substance abuse issues who are involved in the child welfare system. It's a non-adversarial court that provides intensive judicial monitoring and treatment interventions, while also providing a safe environment for the children.

³³ HOPE Court is a new specialized court set up in 2018 to help victims of sex trafficking and their families.

Most of these parents felt hopeful before mediation. But for two, mediation helped them see a better future. The one who said she learned she needed to grow up said she feels “better, confident. Ready to conquer things.” The one who saw “joy and happiness” said that what was discussed in mediation made her really feel like she and her child would be in a “happy place.” Their mediations were particularly supportive.

Anything Else?

Four parents had further comments:

- “I’m glad I came to mediation. I was dreading it this morning. But now I’m clearer about what’s going to happen. We have a plan in place. My head still hurts, but I’m leaving a little of the stress on the table.” [Mother]
- “It was helpful.” [Mother]
- “Mediation was pretty effective. We got an understanding put in place for both parents.” [Mother]
- “I love my daughter with all my heart unconditionally and we’ll stay together. We’ll get through this.” [Father]

DISCUSSION

Almost all the parents had a positive response to mediation, with half leaving very happy with their experience. Those who had a positive experience expressed satisfaction with the support they received from the professionals at the mediation, their greater clarity about the process going forward, and the chance to express themselves and be heard. The two who did not have a positive experience felt they weren’t listened to and were being pressured.

The parents generally entered mediation not knowing what to expect in mediation, but were nonetheless fine with being referred. A couple were scared or nervous. One entered with dread. Their answers point to their possibly benefiting from more information about mediation beforehand.

More parents saw mediation as being different from FTM and court than saw it as being similar. They felt more support, believed they had a greater opportunity to talk, and saw a difference in the content of the discussion. Their overall responses in the interview indicate that support and the discussion of new services were what led them to see things differently after mediation.

Almost all of the parents felt listened to, and they almost all felt comfortable speaking up for themselves. Most felt good about the people around the table, and most of those felt that way before the mediation, though one felt more supported and confident that the professionals wanted to help her child, and another felt more respected and understood.

All but one of the parents who had services changed in mediation were positive about those changes. They were “pumped,” and “confident.” All but one believed that if they did what they were being asked to do, their future would be better. All but two trusted that the professionals involved in their case wanted what was best for their children. The other two thought there were individuals involved in their case who did not. All of the parents had hope for the future, a hope that, for most, preceded mediation.

The parents’ responses in the interviews indicate that by and large they have a positive outlook on their situation as a whole. They have hope for the future and believe that those involved in their case have

the best interests of their child at heart. Mediation emphasized these beliefs for them, and sometimes changed them, when the professionals expressed support for them and listened fully to them.

PROFESSIONAL SURVEYS

Professionals who completed the post-mediation survey were largely positive about their experience. They were able to talk about what was important to them and felt the mediator understood. The vast majority gained understanding about others' points of view and of the parents' situations. They felt respected and treated fairly by the mediator. Further, almost all of them recognized that mediation provided benefits, with many recognizing multiple benefits from the same mediation.

When the professionals noted what made mediation effective, they most often pointed to the mediator's actions or demeanor. When it didn't go as well, they saw the biggest barrier to success in mediation as a participant's unwillingness to talk about stipulation, followed by a participant's anger or hostility. When discussing how to improve mediation, they said mediation should have started on time.

A large majority of professionals who responded were positive about their experience in mediation. They overwhelmingly felt they had voice and that they were treated with respect and fairly. The vast majority saw benefits from mediation, primarily for the parents.

Method

After each mediation ended, the case managers emailed the mediation sign-in sheet to the evaluator. The evaluator then emailed a request to each professional who participated, and for whom contact information was available, to complete a survey online. This email was almost always sent within 24 hours of the mediation. A reminder email was sent two days later to those who had not completed the survey. Because professionals can sometimes mediate more than once within a week, a third reminder was not sent, as it could easily have overlapped the professionals' next mediation, making multiple requests to complete surveys confusing. Further, it would be difficult for the professionals to remember what happened in the mediation beyond 72 hours.

Data

In all, 91 professionals answered at least part of the survey, and there were 86 complete responses. Three responses were excluded because they were for a case that did not mediate because the parent did not show up. Thus, the sample size is 88, with 83 complete responses out of a total of 411 surveys sent. This gives a response rate of 21.1%.

Since many of the professionals participated in more than one mediation, some completed more than one survey. A total of 145 different professionals participated in mediation during the study period, and 58 of them responded. This means that there was at least one survey response from 40% of those who participated. The sample is skewed toward parent's attorneys and guardians ad litem (GALs), who were responsible for 63 (72%) of the 88 responses. GALs were the most representative, with 28.4% of those who participated in mediations responding.

Surveys were received for 62.5% of the mediations held, as there was at least one response for 60 of the 96 mediations. Twenty mediations had more than one response, with a range of between two and four responses per mediation.

Role	Percent of Responses	Count
Parent's Attorney	40.9%	36
GAL	30.7%	27
AAG	15.9%	14
CFSA Social Worker	11.4%	10
Other – (Write in Required)	1.1%	1
Totals		88

PROFESSIONALS' RESPONSES

The professionals were asked a series of questions that explored their experience of voice, understanding, fairness and respect. They were also asked questions about the mediation itself: what benefits they saw, what barriers to success were present, what made mediation effective and what could have improved it.

Professionals' Voice

Just as with parents, it is important for professionals to feel that they have the opportunity to speak and to be heard by others at the table. Two questions explored whether the professionals felt they had voice:

- Were you able to talk about the issues and concerns that were most important to you?
 - Response options were all, most, some, none
- Did the mediator understand what was important to you?
 - Response options were 1 (not at all), 2, 3 (somewhat), 4, 5 (very much)

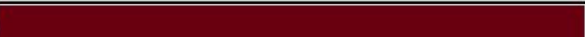






The survey responses show that the professionals overwhelmingly felt that mediation was providing them an experience of voice.

94% of professionals said they were able to talk about all or most of their issues and concerns

Of the 87 professionals who responded, 67 (77%) said they were able to talk about “all” the issues and concerns that were most important to them. Another 15 (17%) said they were able to talk about “most” of their issues and concerns. Only five felt they didn’t have sufficient chance to talk, with three saying they were able to talk about some of their issues and two saying none.

82 of 87 professionals felt the mediator understood what was important to them

The other determinant of whether the professionals had voice was whether they felt that the mediator understood what was important to them. The statistics were similar as for the previous question. Of the 87 who responded, 82 (94%) responded with a 4 or 5 (very much) on the 5-point scale, indicating that they believed the mediator understood them. The other five answered with a 3 (somewhat).

Professionals' Experience of Voice			
Were you able to talk about the issues and concerns that were most important to you?			
Response	Frequency	Percent	Mean: 3.68
All	66	76.7%	
Most	15	17.4%	
Some	3	3.5%	
None	2	2.3%	
Did the mediator understand what was important to you?			
Response	Frequency	Percent	Mean: 4.50
5 (Very much)	48	55.8%	
4	33	38.4%	
3 (Somewhat)	5	5.8%	
2	0	0.0%	
1 (Not at all)	0	0.0%	

Understanding by Professionals

Another important benefit that mediation should provide is to increase everyone's understanding of the others' views and, in the child protection context, the family's situation. By gaining this understanding, professionals can make better decisions in the case. Here again, the professionals who responded believe that this is happening. In this context, the professionals have, for the most part, all discussed the case in the family team meeting (FTM) and the initial hearing. It is therefore significant that the professionals believe they are gaining a better understanding of the others' points of view and the parents' situations during the mediation.

73% of professionals said they better understood the others' point of view

Of the 86 professionals who responded, 63 (73%), responded with a 4 or 5 (very much) on the 5-point scale, indicating they better understood the points of view of the others at the mediation. Another 13 (15%) said that they gained a "somewhat" better understanding, responding with a 3. Only ten (12%) said that they did not gain much or any understanding (responding with a 1 or 2). This means that most professionals are gaining a new perspective in mediation.

Most professionals gained some understanding of the parents' situations through mediation

A similar number of professionals – 65 of 86 (76%) – said they gained a greater understanding of the parents' situations in mediation, responding with a 4 or 5 (very much). Nine (10%) said mediation "somewhat" helped them to understand the parents' situation (responding with a 3). Twelve (14%) said mediation did not help, responding with a 1 or 2. Thus, the vast majority of professionals are learning more about the parents' situations in mediation, which should help them make better decisions about the case.

Professionals' Understanding			
Did mediation help you to understand the point of view of the other people at the table?			
Response	#	%	Mean: 4.52
Very much	42	48.8%	
4	22	25.6%	
Somewhat	13	15.1%	
2	3	3.5%	
Not at all	6	7.0%	
Did mediation help you to better understand the parents' situations?			
Response	#	%	Mean: 4.50
Very much	36	41.9%	
4	29	33.7%	
Somewhat	9	10.5%	
2	5	5.8%	
Not at all	7	8.1%	

Of the 21 who said mediation at most helped them somewhat understand the parents' situation, 15 said they mediation didn't help because they already understood the parents' situation. These were divided between seven Assistant Attorneys General (four from the same AAG responding for four different mediations), four parent's attorneys, three GALs and a social worker. Interestingly, in those cases for which more than one professional completed the survey, only one said that mediation didn't help them understand the parent's situation. This indicates that these weren't instances of mediation simply being redundant, but were individual perceptions of the mediation.

The others who said mediation didn't help them understand the parents' situation provided a variety of reasons for this. One said they didn't gain understanding of the parents' situations because the discussion wasn't productive, while three noted that it was difficult to get information from the parents. One said it was because the parent was on the phone. Another said that they had reached agreement before mediation.

Fair and Respectful Treatment

All participants in mediation should, at minimum, feel that they were treated fairly and with respect. The professionals' responses indicate that mediation was meeting these goals. Every professional who responded felt that the mediator treated them with respect and treated them fairly. They all believed that the process itself was fair, as well. In each case, their responses were very positive, with 81% believing the mediator treated them "very much" with respect, 78% believing the mediator "very much" treated them fairly, and 70% feeling the process was "very" fair (responding with a 5).

Professionals' Fair and Respectful Treatment			
Did the mediator treat you with respect?			
Response	#	%	Mean: 4.81
5 (Very much)	70	81.4%	<div></div>
4	16	18.6%	<div></div>
Did the mediator treat you fairly?			
Response	#	%	Mean: 4.78
5 (Very much)	67	77.9%	<div></div>
4	19	22.1%	<div></div>
Was the mediation process fair?			
Response	#	%	Mean: 4.70
5 (Very much)	60	69.8%	<div></div>
4	26	30.2%	<div></div>

Benefits of Mediation

The professionals were provided a list of potential benefits mediation provided to the participants and asked which ones resulted from the mediation. These were:

- Agreement on stipulation
- Progress on stipulation
- Expectations were clarified for parent
- Visitation schedule was created/improved
- Services were added/improved for child[ren]
- Services were added/improved for parent
- Parent was able to talk about their concerns
- Parent became less angry/hostile
- Communication was enhanced among professionals
- Professionals were held accountable for their tasks related to the case
- Other: [open response]

All but four of the 88 professionals said mediation provided at least one benefit, with 73% noting more than one benefit. The most common response, by 72% of respondents, was that the parents were able to talk about their concerns. The second most common response, noted by 61%, was that expectations were clarified for the parents. Interestingly, mother's attorneys

Benefits of Mediation	%	#
Parent was able to talk about their concerns	71.8%	61
Expectations were clarified for parent	61.2%	52
Agreement on stipulation	24.7%	21
Progress on stipulation	23.5%	20
Visitation schedule was created/improved	21.2%	18
Communication was enhanced among professionals	35.3%	30
Services were added/improved for parent	18.8%	16
Parent became less angry/hostile	17.6%	15
Professionals were held accountable for their tasks related to the case	17.6%	15
Services were added/improved for child[ren]	15.3%	13
Other – (Write in Required)	5.9%	5
There were no benefits	4.7%	4

and GALs were much more likely than any other group of professionals to say that mediation provided these benefits.

About half of those professionals who responded saw benefits for the stipulation: One quarter said that stipulation was agreed upon (which matches the percentage recorded by the program), while a similar percentage said that progress was made on the contents of the stipulation. More than a third of respondents saw advancements in the case plan: 36% said that visitation and/or services were added or improved. More than a third also said that mediation enhanced communication among the professionals. Other benefits were cited by less than a quarter of the professionals. These were: reducing a parent's anger or hostility (18%) and holding a professional accountable for their tasks related to the case (18%). Four different professionals in four separate cases said there were no benefits. One of these was upset at having had to mediate despite coming to agreement on stipulation before the mediation began.

Barriers to Progress

In order to better understand what happens in mediation and how professionals view the mediation, the professionals were asked what barriers to progress were present in the mediation. Of the 84 who responded to this question, 33 (39%) said there were no barriers.

The barriers most often selected were that at least one attorney was unwilling to talk about stipulation (20%), that at least one participant had a high level of anger or hostility (16%), or that at least one professional was unwilling to move off their position (13%).

Fifteen professionals wrote in their responses. Four professionals in four different cases noted that there was a companion criminal case that limited or negated discussion about stipulation. In another three cases, a professional noted that one or more participants limited the amount of time that could be spent in mediation. Another three said that the parent not being in the room created a barrier to progress. Two cited recalcitrant parents, while one cited the mediator for steering the conversation into areas that were of no interest to the participants.

Barrier	Percent	Count
At least one attorney stated at mediation that they would not be discussing stipulation	20.2%	17
There was a high level of anger/hostility on the part of at least one party	15.5%	13
At least one professional was unwilling to move off of their position	13.1%	11
A question of fact needed to be determined	9.5%	8
At least one professional was not prepared for the mediation	7.1%	6
A question of law needed to be determined	6.0%	5
The mediator lacked the necessary information to facilitate the discussion	2.4%	2
The mediator did not adequately facilitate the discussion	1.2%	1
Other – (Write in Required)	17.9%	15
There were no barriers to progress	39.3%	33

Comments from Professionals

Professionals were asked two open-ended questions about their views of the mediation:

- What, if anything, made mediation effective?
- What, if anything, could have improved the mediation?

More than a third of the respondents (36 of 88) answered these questions.

What made mediation effective?

In all, 32 professionals commented on what made the mediation effective. Almost half, all either parent's attorneys, GALs or social workers, praised the mediator. Most of the others pointed to the participants, either for their open participation or their preparation.

"The mediator was **EXTREMELY** good. One of the best mediators I have ever had. This was a very tough physical abuse case in which both parents are determined to take it to trial, but mediation still managed to be very helpful." (Parent's attorney)

Praise for the mediators

Most of the 15 professionals who praised the mediators commented on the mediator's ability to facilitate the discussion:

- "I think the mediator did a great job of getting to the heart of the issues and of allowing the birth mother to feel she had an opportunity to have her say." (GAL)
- "The mediator first determining what was important to parties." (GAL)
- "Mediator's ability to build upon talks that began between parties in the hallway." (GAL)
- "She was able to redirect the client." (parent's attorney)
- "All parties were asked what they wanted to talk about and given an opportunity to address concerns and provide feedback." (social worker)
- "The mediator was very good. She helped defuse strong emotions by validating the parents' concerns, being sure to repeat herself and repeat back to others to make sure we all understood, and handled the parents' wanting to leave very well." (GAL)
- "1. One parent allowed to vent. 2. Respect for ALL parties." (parent's attorney)
- "That the mediator was able to redirect focus to the topic when needed." (social worker)
- "When [the mediator] learnt that there was not going to be discussion regarding the stipulation, she spent the time allotted in a very productive manner by clarifying to the parties the court orders, services and expectations to achieve reunification." (GAL)

Two mentioned the mediator's demeanor:

- "The patience of the mediator. Her calmness." (social worker supervisor)
- "The mediator was calm, professional, and unbiased." (GAL)

One mentioned the mediator's experience:

- "Mediator was experienced and knew what to do with domestic violence issue." (parent's attorney)

Two just said the mediator was good/the mediator made the mediation effective:

- "Mediator" (parent's attorney)
- "The mediator was **EXTREMELY** good. One of the best mediators I have ever had. This was a very tough physical abuse case in which both parents are determined to take it to trial, but mediation still managed to be very helpful." (parent's attorney)

Participant openness and preparation

Seven professionals mentioned the participants' openness or cordiality as being instrumental in making the mediation effective:

- "Agreeable parent" (parent's attorney)
- "Both parents present and engaged in the effort." (parent's attorney)
- "The biological mother's attorney, AAG, and mother's willingness to talk about the stipulation agreement and come to a mutual understanding in order to move forward." (social worker)
- "Government and GAL were able to be more specific about their concerns as the Petition was thin-very vague." (parent's attorney)
- "The parties were cooperative." (parent's attorney)
- "The conversation was civil." (parent's attorney)
- "Cordiality among parties. The mediator first determining what was important to parties. The parent being open." (GAL)

Two said that the parties preparing beforehand was helpful:

- "Mother had read stipulation beforehand, her attorney and government had consulted about amendments and, as a result, the mother was ready to stipulate. (Mediation was delayed to allow this to occur.)" (parent's attorney)
- "Mediator's ability to build upon talks that began between parties in the hallway. The latter facilitated the ultimate stipulation agreement." (GAL)

Benefits of the process

Some professionals credited aspects of the process for mediation being effective, particularly the use of caucus, in which the parties are separated and speak separately with the mediator:

- "Caucus" (parent's attorney)
- "The parties mediated from separate rooms." (GAL)
- "Separating the parents allowed us to have a productive session. They were extremely hostile to each other and we could not progress with them together because they were very focused on blaming each other." (AAG)
- "The mediator agreed to let us split up the parents, which was crucial. We were able to calm my client down, discuss the case with him, and get an agreement hammered out. Despite very low expectations at the beginning, the session proved to be successful, even though the other parent showed up an hour late and a little drunk." (parent's attorney)
- "The mediation was not effective in reaching a stipulation, but not because of the mediator. The mediation was somewhat effective in making each of the parties understand why the other party was holding fast to their position." (parent's attorney)
- "Not having it for three hours." (parent's attorney)

Open discussion was credited by three participants:

- “All parties were able to freely talk about their specific concerns, and the stipulation was reached.” (parent’s attorney)
- “Everyone having a chance to speak.” (parent’s attorney)
- “All parties participated in discussing the issues that were important to the parents.” (parent’s attorney)

One person simply said that mediation was helpful, while another said “nothing.”

What could have improved the mediation?

Thirty-two of the professionals responded to this question. However, 15 of those said simply “nothing” could have improved it. That leaves 17 who had more substantive suggestions for the mediation.

The responses were rather mixed in content. The long wait was the most common topic:

- “Starting when everyone arrived. It started over 1 hour late.” (social worker supervisor)
- “The mediation was delayed due to the DV [domestic violence] interviews of the parents. We did not start until 11am when we were scheduled to start at 10am. During the time we waited, the mother’s attorney and I were able to discuss and work out a stipulation so there was no real point in having the mediation.” (AAG)
- “Starting on time - all parties were not present at the start time so we had to wait about 30 minutes until we could get started, and it takes about 10-15 minutes for introductions and explaining the mediation process.” (social worker)
- “Having the participants arrive on time so we could begin on time.” (social worker)

Three mentioned that the content of the discussion wasn’t sufficient, noting that mediation would have been improved if the following were discussed:

- “Discussion of services to children and their success or failure” (parent’s attorney)
- “A specific plan for resolving the kinship placement issue and for resolving the issue of training of parents to care for their child.” (parent’s attorney)
- “Address issues regarding mother’s mental capacity since it was clear that she needs psychological help.” (parent’s attorney)

Three wanted other participants to have been better prepared:

- “If the parent’s attorney had already spoken to the criminal attorney before mediation.” (GAL)
- “Social worker could have brought written documentation from the school verifying absences.” (parent’s attorney)
- “Mother’s attorney spending more time with the mother before mediation was scheduled, not right before.” (AAG)

Two complained about the mediator:

- “Mediators should stop acting like detectives and facilitate the interests of the parties more. It always feels like they’re bored and just want to go over all the details. That invites disagreement among this client population.” (parent’s attorney)
- “We had to take the time to explain various programs and issues to the mediator.” (parent’s attorney)

Other ways to improve the mediation were suggested by one professional each. These included the attendance of the ongoing social worker associated with the case; not holding mediation at all, since the parties had reached agreement on stipulation beforehand; and shortening the amount of time for mediation to two hours. One said parents should be in the room: "Parents participating by phone generally leads to an ineffective mediation, from my position." Another commented on the lack of an agenda (which is a departure from the normal mediation process), saying that mediation would have been improved by "letting the parties quickly go around the room to state their goals for mediation before beginning in-depth discussion." One other said that mediation should have been held at a later date: "It should have been held after some discovery had been obtained so more facts would be available upon which to determine if stipulation was appropriate."

DISCUSSION

A large majority of professionals who responded were positive about their experience in mediation. They overwhelmingly felt they had voice and that they were treated with respect and fairly. The vast majority saw benefits from mediation, primarily for the parents. Their understanding of what mediation provided fits well with the goals for mediation in this context: the parents' ability to talk about their concerns and to gain greater clarity about what is expected of them.

The professionals were more likely to see benefits than barriers in the mediation, and to discuss what made mediation effective, than to say what could have improved it. The benefits they saw were primarily those that helped the parents, rather than themselves; however, 30 did note that communication was enhanced among professionals, and 15 said that someone was held accountable for what they needed to do for the case. These benefits align with the court's goals for mediation and what the focus group participants said they wanted out of the mediation.

The professionals were more likely to laud the mediator than anything else for mediation's effectiveness. This contrasts with the complaints about mediators that came up in the focus groups. In response to the question about what could be improved in mediation, they were most likely to say it should have started on time. This reflects what the focus group participants said. However, the number who complained about the late start was just a small subset of the professionals who completed the survey.

Unfortunately, with only 21% of the participants responding, the responses may not be fully representative of the professionals' views of the mediations conducted during the study period. Further, the sample is skewed toward GALs and parent's attorneys. What can be said is that most of the 40% of the professionals who participated in mediation and responded to a survey had at least one positive experience with mediation, and saw benefits accrue to themselves and the parents through their participation.

MEDIATOR SURVEYS

The mediator survey covered what happened in the mediation, what the outcomes were, and the reasons for its effectiveness and barriers to success. The mediators indicated that at least part of the plan for the case, including services and visitation, was developed during about eight in ten mediations. Stipulation was also positively affected, with agreement or progress on its terms resulting from almost five in ten mediations. The mediators saw other positive outcomes in every mediation, primarily for the parents. They said that the parents benefitted by learning what the professionals' expectations of them were and, for some, becoming less angry. According to the mediators, professionals gained from being able to communicate with each other. The mediators credited effective mediations primarily to the participants' willingness to be open and collaborative, as well as to aspects of the process itself.

On the other end, when mediations were not successful, the mediators most often pointed to an unwillingness or inability to discuss stipulation. Inability to discuss stipulation was due to a missing person, the presence of a companion criminal case, or the need for more information about the case. In response to the question of what could have improved mediation, the mediators most often mentioned the absence of a person or the difficulties of phone participation. Time issues were the second most commonly cited need for improvement.

When mediation goes well, mediators praise the participants, particularly the professionals. Where it can be improved, mediators most commonly see the absence of a party or their presence on the phone as the issue, followed by professionals' lack of preparation.

Method

Immediately after each mediation conducted during the study period from April 1, 2017, to October 31, 2017, program staff emailed the sign-in sheet for the mediation to the evaluator, which included the name of the mediator. The evaluator then sent the mediator an email within 24 hours, asking them to complete an online survey. If they did not respond within 48 hours, they were sent a reminder email.

Data

Mediators completed surveys for 84 of 96 mediations (88%) during the study period. Surveys were completed by 20 of the 21 mediators who mediated during this time.

MEDIATOR RESPONSES

Responses from mediators to survey questions are organized into six categories: progress on the plan for the case, stipulation, other outcomes of mediation, use of caucus, barriers to progress and comments.

Progress on the Plan for the Case

One of the court's goals for mediation is to facilitate the development of early, appropriate, and comprehensive case plans. For that reason, mediation almost always includes a discussion of services for the parents and children and, less often, visitation. Any resulting decisions that arise from this discussion are termed "the plan for the case." This plan may include what services will be provided to parents and children, any assessments that will be required, a visitation schedule, or some combination of the three. In order to assess whether mediation is helping to develop a plan for the case, the mediators were asked two questions:

- Was a plan set up for the case prior to mediation?
- Was a plan set up for the case during the mediation?

The dual questions were meant to obtain information on how much progress was made on the plan for the case during the mediation. The mediators' responses regarding the status of the plan for the case prior to mediation indicate that it might have been a difficult question for them to answer. Their information on what happened in mediation is likely more accurate. They indicated that mediation led to progress on the case plan in 91% of the cases.

Was a plan set up for the case prior to mediation?

In 31 cases (37%), the mediator said that there was no plan for the case prior to mediation. One-third said that the plan for the case was partially set up, while 19% said it was already set. The mediator didn't know the status of the plan for the case prior to mediation in nine cases.

Given that for most cases, a family team meeting (FTM) most likely had already been held, it doesn't seem realistic that 31 cases had no plan set up prior to the mediation. This may mean that the mediators could not accurately answer this question.

Was a plan set up for the case during the mediation?

For the cases in which the mediator indicated that the case plan had not been fully set up prior to the mediation, 78% said that it was fully set up during the mediation. Another 13% said it was partially set up. This means that some progress was made on the plan for the case in 91% of the cases. For 5% of the cases, the mediators said mediation ended with no case plan put in place at all, either before or during mediation.

Stipulation

In the interest of understanding the effect of mediation on progress toward stipulation, mediators were asked what happened with the stipulation during the mediation. For 23 cases (27%), the mediators said that an agreement was reached, with agreement reached before mediation started in two of them. For another 17 cases (20%), they said progress was made on the contents of the stipulation. Thus, in almost half of the mediations, the mediators reported that at least some progress was made on the stipulation. This reflects what the professionals said.

	%	#
Agreement was reached before mediation started	2.4%	2
Agreement was reached in mediation	25.0%	21
Progress was made on the contents of the stipulation	20.2%	17
Stipulation was discussed but no progress was made	15.5%	13
Stipulation was not discussed	23.8%	20
Other - Write In (Required)	13.1%	11
Total		84

In the other 44 mediations, no progress was made. In 13 cases (16%), stipulation was discussed without any progress, while in another 20 (24%), stipulation wasn't discussed.

Other outcomes regarding stipulation

In 20 of the 84 cases (24%), mediators selected "other" as their response to what happened with stipulation at the mediation. Of those, nine reflected one of the categories provided (either agreement or not discussed), and have been incorporated into the data above. This leaves 11 responses, accounting for 13% of the cases, that were truly "other." These other stipulation outcomes were two brief discussions; two discussions of alternatives rather than stipulation; two in which the stipulation was discussed just before the mediation, but not at mediation; and three in which there was discussion, but it was not clear if progress was made or not. One said the father at first agreed to stipulation, but then backed out, while one simply said that a number of court requirements weren't met.

Reasons for stipulation outcome

In 12 of the 61 mediations in which the participants did not reach agreement on the stipulation (20%), the mediator provided information about why. The responses indicate that the majority of the cases were lacking information needed to move forward with the stipulation. These included four cases that needed more information regarding an ongoing criminal investigation, one of which also lacked necessary medical information. Another case also needed medical assessments. In two cases, the guardian had changed her mind about whether she wanted to maintain care of the child, and the proposed stipulation needed to be rewritten to account for this.

The other reasons agreement wasn't reached on the stipulation include: the father and his attorney said they needed time to think over the stipulation, the participants decided to delay discussion because the father had limited time to mediate, the mother refused to enter the mediation session, the parties wanted to take the matter to trial, and neither side wanted to discuss the stipulation despite two versions being exchanged.

Other Outcomes of Mediation

Mediators were asked what outcomes resulted from mediation other than or in addition to stipulation. These outcomes are ways in which mediation can help the case move forward, even in absence of stipulation. The options included:

- Visitation schedule was created
- Visitation schedule was changed
- Services for child were added
- Services for child were changed
- Services for parent[s] were added
- Services for primary parent[s] were changed
- Placement was changed
- Expectations were clarified for parent(s)
- Communication between professionals was enhanced
- Primary parent emotions were ameliorated [defused]
- Primary parent emotions became more entrenched
- Other: [open response]

The most common outcome was clarification of expectations for the parents

The most common outcome was that expectations were clarified for the parents, that is, the parents were helped to understand what the court expected them to do going forward. This was an outcome in 75 of the 84 mediations (89%). The second most common outcome, in 58 mediations (69%), was that communication among professionals was enhanced. In 41 mediations (49%), a parent's strong emotions were defused, meaning that parents who entered mediation angry or upset became calmer.

These outcomes reflect the goals for mediation, indicating that in the vast majority of mediations, goals for parents and professionals are being achieved.

Almost 2/3 of mediations led to progress on services, visitation and/or placement

The mediators said that progress was made on services, visitation and/or placement in 54 mediations (64%). When broken down, progress was made much more often on services than visitation. Progress on placement was rare. The mediators said that mediation led to the addition of or change to services for the child in 34 cases (40%). Slightly fewer, 32 (38%), said that services for the parent were added or changed. In 19 mediations (23%), the mediator said that a visitation schedule was created or changed. Placement was changed in four mediations (5%).

Comparison of the responses to these outcomes and those about progress on the plan for the case show a gap between the two.

While the mediators said that progress had been made on the plan for the case in 91% of the cases in which it had not been fully set up prior to mediation, they noted outcomes that would contribute to this plan in only 66% of those cases. The difference may be due to the program's definition of a plan for the case, which includes clarification of services, visitation and placement.

Mediation Outcomes	%	#
Expectations were clarified for parent(s)	89.3%	75
Communication between professionals was enhanced	69.0%	58
Primary parent emotions were ameliorated	48.8%	41
Services for parent[s] were added	35.7%	30
Services for child were added	34.5%	29
Visitation schedule was created	16.7%	14
Visitation schedule was changed	10.7%	9
Services for child were changed	10.7%	9
Services for primary parent[s] were changed	7.1%	6
Placement was changed	4.8%	4
Primary parent emotions became more entrenched	9.5%	8
Other: [open response]	42.9%	36
None	1.2%	1

Other outcomes include discussion of services and visitation, addressing parents' issues, and exchanging information

For 28 mediations (33%), mediators added outcomes other than those listed on the survey. Most of them talked about discussing services, visitation or actions pertaining to them. Others mentioned an increase in parental understanding of issues or of the case, addressing parents' issues and exchanging information. Two noted that the professionals gained greater understanding of the parents, with one saying that the Assistant Attorney General (AAG), guardian ad litem (GAL) and social worker changed their minds about the mother during the mediation.

Interestingly, in eight cases (10%), mediators said that mediation led the primary parent's emotions to become more entrenched, while one said that mediation ended without any outcome.

Use of Caucus

Caucus was used primarily to discuss stipulation

Mediators stated that they separated the parties for discussion in 22 of 84 mediations (26%). The mediators used caucus for a variety of purposes, and sometimes for more than one reason. The majority said they used it to discuss stipulation: 13 of the caucuses (60%) were solely to give parties the opportunity to discuss stipulation separately. Two more used caucus for discussing stipulation along with other purposes, with one wanting to discuss options for issues other than stipulation and one wanting to address strong emotions of both parents and professionals.

In seven mediations, the mediators used caucuses for reasons that did not include discussing stipulation. Each of the seven had a separate purpose: addressing the strong emotions of a parent, discussing options for issues other than stipulation, keeping parents separate due to a civil protection order against the mother, giving the mother the space to absorb and process what it meant that her child had been brought into care for a third time, and helping some of the professionals to brainstorm ways to clarify their intentions to the mother and build her confidence in them. One said the AAG, GAL and social worker wanted to discuss issues without the father's attorney being present. Another said that the caucusing came during the domestic violence screenings.³⁴

Barriers to Progress

The most common barrier was inability or unwillingness to discuss stipulation

In order to better understand what is happening inside the mediations, mediators were asked what barriers impeded progress in the mediation. For 23 mediations, representing 29% of the total, the mediators said there were no barriers. This was the most frequent response. The second most common response, in 13 mediations (17%), was that at least one parent's attorney said they would not discuss stipulation. When added to the nine mediations (11%) in which the parent's attorney did not discuss stipulation with their client before mediation, and the one in which the AAG declined to discuss stipulation, this means that in 23 mediations (29%), unwillingness or inability to discuss stipulation due to lack of preparation on the part of a professional was a barrier to progress.

Mediators said lack of preparation by a professional was a barrier in 12 mediations (14%). The other barriers were listed for no more than nine mediations each. Of these, anger/hostility between the parties was the most common (9 mediations). This was followed by a question of fact needing to be determined (7), at least one professional being unwilling to move off of their position (6), a question of law needing to be determined (5), and mediation needing to be terminated before all items on the agenda could be discussed (2).

For 38 mediations (48%), the mediators checked "other" and wrote in responses. Six of these fit under another category, leaving 32 truly "other" responses. Most commonly (in seven mediations), the barrier was a missing parent or professional. For another seven, a companion criminal case kept the participants from being able to move forward with a stipulation. Other reasons were parents' mistrust of the agency and/or government (5), additional time being needed for the stipulation to be modified or discussed (3), the mother's mental illness (3), and time constraints (2). In one mediation each, the

³⁴ A domestic violence screening is generally not considered to be a caucus because it precedes mediation.

mediators named as barriers the need for more information, a rude and impatient professional, a parent participating by phone, and disengaged professionals.

Barrier	Percent	Count
At least one attorney stated at mediation that they would not be discussing stipulation	15.5%	13
At least one professional was not prepared for the mediation	14.3%	12
There was a high level of anger/hostility on the part of at least one party	10.7%	9
A question of fact needed to be determined	8.3%	7
At least one professional was unwilling to move off of their position	7.1%	6
A question of law needed to be determined	6.0%	5
Mediation was terminated before all items on the agenda could be discussed	2.4%	2
Other – (Write in Required)	44.0%	37
There were no barriers to progress	27%	23

Mediator Comments

Mediators were asked two open-ended questions about their views of the mediation:

- What, if anything, made mediation effective?
- What, if anything, could have improved the mediation?

Almost all of the respondents answered these questions.

What made mediation effective?

The 71 mediators who responded to this question saw two major factors in the success of the mediations. First and foremost, they credited participants – both professionals and parents – who were willing to collaborate, communicate and engage in the process, remarking on these behaviors in 39 mediations. They also saw the process itself as being instrumental in helping the participants be able to communicate effectively and move the case forward. They sometimes noted how their own actions assisted in this process, as well.

Participants

For 17 mediations, the mediators praised the participants for being respectful, open and willing to collaborate. Parents were praised for being engaged in the process. Mediators also commented on the contribution of some professionals' actions and competence.

Their comments regarding the participants' respectful and collaborative interactions included:

- **Parties were open-minded and respectful** of each other's concerns.
- Good SW [social worker] and GAL and realistic fathers' attorneys, and their focus on what could be done now and in foreseeable future to help children. Parents' cooperation and eagerness to aid reunification. **Everyone's willingness to work within mediation rules and customs.**
- **Parties eagerness to work together.** The AAG paying attention to the mother's emotions.
- This was an immensely disturbing case. Mother explained all the steps she took to support her daughter; provided a psychological assessment she had done; admitted that their daughter's relationship with both of them was difficult; at one point the family was at risk of eviction. Mother works and has a 10-year-old autistic child; dad is unemployed. **The one positive is how everyone pulled together to help the family re-unite, find an appropriate new assessment for**

the daughter, identify a school where she feels welcomed, etc. This kind of session demonstrates the hidden value of child protection mediation, namely, allowing parties a safe space to engage in collaborative efforts and uncover a huge amount of new information making for a more constructive and positive outcome.

- Collaboration to "reverse engineer" around non-contact with criminal defense attorney, explanation of investigation procedure. Good group really focused on child.
- **Good communication between professionals and Mother.** Clear explanation of what she needs to do to comply with the court orders.
- Parent had a strong support team from Health Services for Families with Special Needs - therapist, nurse and SW; Mother presented her concerns on the table and **all parties were very open to working together for the best interests of the family and the child.**
- **The professionals' willingness to work together** and to share resources in assisting the parents.
- **This was a very cooperative group.** There was obvious support for the mother.
- The participants worked well together and were successful in changing some of the language of the stipulation so that all parties were comfortable signing.
- **Everyone worked sincerely and cooperatively** to support the process and the family.
- **Parties were cooperative and had an understanding** of what the status of the child was.
- Willingness of professionals to work together for what was best for child.

"All parties were very open to working together for the best interests of the family and the child."

In nine mediations, the mediators focused on the professionals' contributions. Mediators' praise for the professionals included:

- **Fabulous professionals!** AAG noticed when Mom needed a break and clarified when Dad got mad that this was all about his daughter (not about the past). Mom's lawyer asked good questions. Social worker really on the ball.
- **SW demeanor** and willingness to work with the parents.
- **Mom's lawyer was excellent!** Govt. was willing to take out language in stip.
- **All of the professionals were engaged in the process.** I made my expectations clear re the use of cell phones during the mediation and two attorneys put their phones away. This minimized the distractions.
- **AAG was open** to making lots of changes for both parent's attorneys and we divided the stip[ulation] into two separate stips, one for each parent crafted to meet their wishes. **GAL was very "seasoned"** and was very direct about issues that others were reluctant to address.
- **The parties were very helpful and supportive** of the guardian and provided information on resources both for her and the child. They also tried to help her be realistic about the complexity of the issues and the support she would need.
- **GAL was also good.** At one point Mom said "there's too much of an age difference between us." And he said something to the effect of "in our community/culture, your age group is the one raising black kids" -- She took his point, and it was a point I couldn't have made as effectively.

Seven mediators saw the positive impact of the active participation of parents. Their comments included:

- **Mother and Father were actively involved in the mediation**, asked questions, expressed emotions over loss of child, expressed desire to get child back.
- **The willingness of the putative father to take custody and PGM's [putative grandmother] preparedness to assume care for the infant.** But nothing can be done on the former until the DNA, and on the latter until CFSA [Child and Family Services Agency] conducts a background check on the PGM and conducts a home review. The parties scheduled a 'team meeting' with hopefully the mother present so they can begin case planning. The SW is under pressure to get a case plan to the Court ASAP.
- **The mother was willing to discuss her concerns**, ie, lack of communication with the CFSA SW, concern re child's medication, school attendance, and the fact that she just needed help with her six children.
- **The mother was very cooperative**, had an excellent rapport with her attorney was very motivated to do the work (Inpatient or outpatient drug program, frequent urine tests, mental health counseling) to be reunited with her children).
- The mother/father were very involved in the mediation.
- **The mother's willingness to cooperate** and show her appreciation for services she has received.

For six mediations, the mediators noted that both the parents and professionals contributed to the success of the mediation:

- **The mother** was very willing to discuss her concerns and needs for her children. **The GAL** wanted to make sure that all parties understood the primary needs for the children, thus all parties were able to advocate for the children.
- **Both parents and attorneys** were willing to discuss options for placement and the stipulation with the mediator. 2 separate caucuses were held.
- **Mother's attorney** took the time to explain stipulation. **Mother** expressed wish for the best for her child.
- The preparation and professionalism of the participants and the willingness of the mother supported the process.
- The **mother's willingness** to engage in whatever services that would reunite her family. **Social worker's straight talk** with father about his responsibilities as a Dad. Parties left with a stronger sense of teamwork.
- This was a really interesting mediation. Contributing factors: mother was quite a character. Smart, funny and dramatic. As it happened, the AAG appreciated the mom's uniqueness and was (appropriately) amused by her and they ended up having a great rapport. This resulted in making headway in the stipulation, the mom heard how amenable the AAG was to making changes. Mom: "I don't like section 3." AAG: " Section 3 deleted".

Process

In 14 mediations, mediators credited the process itself for making mediation effective. Representative comments include:

- **The professionals were able to clarify their intentions regarding the children to the parents-goal= reunification. They had brainstormed how to most effectively do this when the parents and their attorneys were conferring in the hall. I prepared a flip chart page based on their ideas to use when the parents returned to joint session.** The parents gained enough confidence in the intentions of the professionals that they shared information about how to best communicate with the children – including topics unique to the family so that the children would know that the professionals had spoken to the parents (communicating parents' unspoken permission for the children to talk to the professionals) and how to speak to the children (using an indirect rather than a direct communication style).
- **Providing a forum for all family members and professionals to discuss the case in a neutral setting.** There was high emotion on both sides (father and mother not apologizing but stating their positions ... e.g. they wanted their two boys to be placed together more than looking out for what was in each boy's best interest ... also GAL and AAG took a lot of heat from dad and his attorney and appeared to notice that mom & dad never acknowledged even the possibility of their own responsibilities)
- This was an immensely disturbing case. Mother explained all the steps she took to support her daughter; provided a psychological assessment she had done; admitted that their daughter's relationship with both of them was difficult; at one point the family was at risk of eviction. Mother works and has a 10-year-old autistic child; dad is unemployed...The one positive is how everyone pulled together to help the family re-unite; find an appropriate new assessment for the daughter identify a school where she feels welcomed, etc. **This kind of session demonstrates the hidden value of child protection mediation, namely, allowing parties a safe space to engage in collaborative efforts and uncover a huge amount of new information making for a more constructive and positive outcome.**
- Professionals got a close up at parents' concern for their children. Clarification on visits, none of which had occurred yet. Progress made toward a kinship placement thus making visits more frequent and longer, time-wise. Very satisfying experience. **Nothing like a level-playing ground to build understanding.**
- Unfortunately, we could not move forward because of the mother's mental condition. **The other professionals were able to have important discussions outside of the mediation, so it was helpful that they were together.**
- I think they had a **safe space** to confirm who the parties are, what the positions are, and while they did not agree on the stipulation, their differing points of view were made clear.
- **Time and space to be heard**, slowing conversation down, Mother stated she felt free to speak and talking in front of a group was usually hard for her.
- **Allowing both parents to speak by phone**, professionals to determine child's whereabouts and solidify services for child including educational and medical decision makers.
- Mother and Fathers had a **chance to voice their concerns and clarify expectations**

- **Father was able to talk to all the participants** and this helped him understand what is happening with his son and also the legal aspects of the case. **He was able to have input about the placement of his son** and worked out visitation process at the jail.
- Both parents and attorneys were willing to discuss options for placement and the stipulation with the mediator. **2 separate caucuses were held.**
- **Mother and father were able to clearly express their needs.** In this case, their twin infant had died so mother was very depressed upon entering the mediation room.
- I think **it was helpful for all the professionals to be together and be better able to assess the mother's mental state** and how that affects how they will move forward with this case.
- Even though a stip was signed in the hall before mediation, **the mediation gave the parties the place to discuss the next steps and what was expected of the parents to move toward reunification and success.**

Some mediators understood the question as what they themselves did that was effective:

- Initially the mother felt that there was no need for her to discuss what she was feeling. But, I **believe that my continued talking with her, asking her input, what she was feeling, made a big difference and her involvement in the mediation.**
- Clarification of state's expectations to return infant to mother...and clarification of other parent services. Think the state and GAL received adequate reassurances through heated discussions and clarifications that service plan would be followed. **Father, paternal grandfather and father's attorney were present by phone which required mediator to continue to summarize, paraphrase and identify speaker so everyone was and felt heard.**
- Mediator's patience with Mother
- The professionals needed information from guardian and vice versa. **We spent a great deal of time clarifying guardians concerns re religious dietary and clothing requirements. I think clarification put all at more ease.** State clarified expectations of guardian for supervised visitation.
- I was informed by the GAL that emotions ran high, particularly the father's, in the Family Team Meeting. ... **During the mediation today, the father and mom were given the space to vent.... I used validation and framing to acknowledge mom and dad's concern and their willingness to be involved in daughter's care.**
- Guardian's lawyer really wanted guardian to take her time (as she was making a very permanent decision to give up parenting rights). **I also noticed where I think Mom was misunderstanding. For example, one service ordered was family therapy. Mom refused. I wondered if she even understood what that was. ... So I asked someone at the table to explain what family therapy really meant and what it was like and clarify what could be possible from it and what it wasn't. Also, no one mentioned that the biological mother was back in the picture and so I brought that up for clarification and it led to a discussion that added new context and meaning.**
- All parties responded well to my efforts to create an open atmosphere.

Seven mediators discussed the benefits that came out of mediation. Their comments included:

- There is much to determine as to whether the non-birth parent will be engaged with the child once she is released from jail and the CPO [conditional protective order] withdrawn. **There is now clarity about placement with the respondent's older sister (25).** Given those unknowns there is clarity about what comes next, who does what, and how all focus must be on the child's well-being.
- **The parents gained clarity and more visitation was discussed.** The professionals made plans to communicate further on questionable topics that were discussed.
- Professionals needed to ask questions and Mother's attorney with help of interpreters were able to address issues. Mother also talked about her concerns regarding child.
- Expectation of when the child would be in family placement was clarified.
- The addition of the services for the Respondent/child were enhanced.
- **I think/hope that the mom started to realize the gravity of the situation she is in.** She wants her children back but needs to realize that continuing to say that the child's injuries were an accident is a barrier to reunification. I think/hope she heard that from the GAL and AAG, who were very clear.

What could have improved the mediation?

In all, 54 of the 84 mediators (64%) who completed the survey included comments on what could have improved the mediation. Of those 54, 18 (33%) either said nothing could have improved the mediation or that they were not sure. The mediators' responses indicating what could be improved were diverse, with no more than 11 responses for each reason. The most common response, by 11 mediators, fit more with what made mediation ineffective, which they saw as the absence of necessary parties or the difficulty posed by phone participation. Seven felt the mediation could have been more productive if the professionals had prepared for the mediation beforehand. Six noted that the participants needed more information or that there should have been better communication. Time was an issue for six mediators, including the need to wait before the mediation and the lack of time available to mediate due to participants arriving late and leaving early. Two believed the mediation would have been more productive if the issues involved with the companion criminal case had been resolved before mediation.

Presence of participants would have improved mediation

Five mediators said mediation would have been improved by the presence of people essential to the case, including the mother in three cases and an unnamed parent in two.

Another six mentioned the difficulties posed by phone participation, including inability to control the phone participant and technological issues with the phones. Their problems are shown in the representative comments below:

- Mother's physical presence and her focusing on the respondent rather than her own concerns. And she was caring for a 2 year-old and an even younger child during the mediation and was distracted.
- Perhaps if the mother had attended in person it would have been easier to calm her down and reassure her that the parties were there to help her, but that is not likely given her history of mental issues.

- **If all parties were in the room as father was on the phone.** Additionally, all the parties had not discussed the stipulation with their respective attorneys.
- **Three people did not attend:** The mother, on bed rest; the father's attorney; the CPSA SW. The mother stated she was on bed rest; the father thought this was a CFSa meeting; and the SW, did not have it on her calendar. **The mediation was conducted via phone with the 3**, and those in attendance at the table.
- **Mother was present via cell phone. We were cut off once. She had trouble hearing us** but I think we managed to include her as best we could. Absence of criminal case [would have improved mediation] ... Both mom and dad want custody now rather than full custody by dad.

Professionals should have prepared for mediation

According to the mediators, seven of the 84 mediations suffered from a lack of preparation on the part of the professionals, including four who said the stipulation should have been circulated in advance. Other issues were the mother and her attorney not meeting before the mediation, the professionals not preparing the mediator for the contentious relationship between the mother and father, and the parties not exchanging what they wanted ahead of time.

Time constraints and long waits

In six mediations, mediators were concerned about time issues, with two noting that the mediation was late in starting and three noting time constraints, and one upset by both:

- Well, it would have been nice not to have started nearly an hour late, if the AAG could have stayed for more than few minutes, if the present father's atty could have arrived less than an hour late...
- Timeliness of mother's attorney due to parking issues (that are a consistent issue) could have been better.
- ...mom was over 45 min late.
- We were approaching 5 pm so there wasn't time to agree on the stipulation and see the judge the same day.
- Further clarification of participants' time constraints
- Expectation and willingness of all involved to mediate for the full duration of the allotted time [would have improved mediation].

Timing was too early for some information to be available

In five mediations, more information would have been helpful, including a father's paternity, what the child wanted regarding placement, access to the father's criminal record and whether there was a protection order against him, medical assessments, and a heads up before the mediation that the guardian had changed her mind about terminating guardianship. In another case, the GAL hadn't yet visited the child and the father's paternity was yet to be determined.

For three of the above cases, the mediators were essentially stating that mediation took place too soon to be fully effective and therefore the timing of the mediation was an issue. If it had taken place later, they may have had the information they needed (results of the paternity tests and the medical assessments, and information on the child from the GAL). One of these cases took place 14 days after the initial hearing. The other two occurred later – 25 and 26 days after the initial hearing.

Other issues that affected mediation

Three mediators thought they could have done better, with two feeling they could have better controlled the discussion and one thinking that he or she should have called for a caucus with the parents and their attorneys. Two mediations would have been improved by the discussion of stipulation. Two were impeded by a companion criminal case. In two others, mediation would have been improved by a participant being more civil, while in one the acrimonious relationship between the mother and the professionals was an impediment. Finally, one mediator thought the mediation should have been scheduled for a Saturday, so the mother could participate.

DISCUSSION

For mediators, almost every mediation had at least some benefit for the participants, and the vast majority provided multiple benefits. This fits with the court's interest in mediation being more than just a venue for discussing and/or agreeing to the stipulation. This is good, because stipulation is not always discussed due to either the need for more information or the existence of a companion criminal case. It also fits with what many of the professionals want out of mediation.

Even though stipulation isn't the only goal for mediation, it is an important one. The mediators noted that mediation resulted in progress on stipulation, including agreement, in 49% of the cases. Another goal, making progress on the plan for the case, was much more commonly met, with mediators stating that mediation ended with a plan for the case was at least partially set in more than 90% of their mediations. There is, however, a gap between the percentage of cases in which the mediators said a plan for the case was developed and the percentage in which mediators said the components of the plan – services, visitation and placement – were added or changed. This could be due to the program's definition of a plan for the case, which includes clarification of these components, not necessarily addition or amendment to them.

The other benefits accrued to the participants were most commonly clarifying to the parents what they needed to do in order to have their children returned home and enhancing communication among the professionals. These, in theory, help the case to proceed more smoothly, with parents more likely to comply with services and professionals getting on the same page about what's happening in the case and what will happen going forward.

Mediators most often attributed the success of mediation to the participants themselves being open, collaborative, understanding, or simply "excellent" or "fabulous." They also pointed to the elements of mediation itself, such as its ability to level the playing field and encouragement of open conversation in a safe environment, as being instrumental in making mediation effective.

According to the mediators, the barriers that are most likely to inhibit the achievement of these benefits are the participants being unwilling or unable to discuss stipulation. Other significant barriers include anger/hostility among the parties, the absence of an essential person and the presence of a possible criminal case. When asked what could have improved mediation, they most often wanted parents to have been able to participate in person, rather than by phone. They also wanted professionals to be prepared. A number wished they could have started sooner or had more time in the mediation.

In sum, most mediations end with more than one benefit to the case and the participants, although progress on stipulation occurs in about half of the mediations. The most common reason for lack of progress on the stipulation is the need for more information. The other benefits mediators cited in a

majority of cases reflect the court's goals for mediation: improving parent understanding, improving communication and advancing the plan for the case. When mediation goes well, mediators praise the participants, particularly the professionals. Where it can be improved, mediators most commonly see the absence of a party or presence on the phone as the issue, followed by professionals' lack of preparation.

JUDGE INTERVIEWS

All eight judges who hear child protection cases, as well as a departing judge who had been involved in developing the pilot mediation program, were interviewed to get their views on the mediation program. The judges had very positive perceptions of the mediation program, and most believed it had a greater role than just reaching agreement on the stipulation. They saw mediation as a forum for parents to gain understanding and to be heard and for professionals to narrow issues and refine the legal case. Almost all of them refer all cases to mediation, trusting the program to determine which cases should not be mediated due to domestic violence or severe mental illness.

All but one of the judges believed the 30-day deadline for mediation to occur was sufficient, but there was a difference of opinion as to when the sweet spot is. They were divided as to whether mediation should take place as soon as possible or should wait until at least seven to ten days had passed.

The judges are all supportive of the mediation program. They all saw the benefit of all those involved in the case sitting down together to discuss the legal issues, but also to enhance relationships and gain clarity.

Data

The interviews, which took place in their chambers, were semi-structured qualitative explorations that took between 30 minutes to an hour. They were conducted from November 2016 through October 2017.

The judges had varying experience with the program, from two who were part of the team who developed the program, to one whose only experience with the program was limited to referring cases to it for the past year. Before joining the bench, three had been Assistant Attorney Generals (AAGs) working with child abuse and neglect cases, one had represented parents, and one had been both a parent's attorney and guardian ad litem (GAL). The other three had no prior experience with these cases. Three of the judges had been hearing abuse and neglect cases for a year or less at the time they were interviewed. One had six years on the bench, while the other four had ten years or more.

JUDGES' RESPONSES

Purpose of Program

All the judges saw mediation as a forum for discussing legal issues or stipulation. All but three thought that the final purpose was to reach agreement on stipulation. This avoids trials, gives the parents control over the findings, and allows everyone to have a say about the contents of the stipulation. The three who did not see resolution as the end goal saw mediation as an opportunity to increase parents' understanding, allowing them to hear things and ask questions in a comfortable, non-contentious setting. Further, according to one judge, it gets rid of irrelevancies by talking things over, paving the way for a smoother pre-trial and trial. One also saw it as an opportunity to find family placement for the children.

What Should Mediation Accomplish?

For all but four of the judges, the purpose of the program and what mediation should accomplish were the same thing. The other four talked about what the participants should do in mediation. Each had a slightly different take on the same idea, which comported with the purpose of mediation: that the participants should leave mediation having discussed the factual and legal issues of the case.

Two of the four said that the attorneys should leave knowing if the case is going to trial. One of them added that the attorneys should also know what the parents' level of cooperation is and whether the parents understand what they need to do to work toward permanency and case closure. Another judge thought that the professionals should have worked on a joint pre-trial statement, something she said never happened. The fourth said that mediation is all about opening lines of communication so that the participants can hear and understand each other's position.

How Well Is the Program Doing This?

All the judges believed the program was accomplishing what it should accomplish. Primarily, they pointed to high stipulation rates. Judges said that even if the participants didn't reach agreement in mediation, mediation helped them to do so later on. That's why, one judge said, the judges make it a practice to be available to accept a signed stipulation. They see stipulation as helping the families, because families then don't have to "go through the trauma of trial and testifying against each other," in the words of one judge. Another judge mentioned that later hearings ran more smoothly, while another noted that the trial calendar was greatly reduced since the mediation program.

Despite the judges' praise of the program, none really knew what happened with the mediations, or even whether cases were mediated at all. They received no formal communication about mediation and only learned if a case was mediated if one of the professionals brought it up in hearing. They didn't see that as a problem, however, as only one said she would like to know whether a case had been mediated. She thought it might be helpful if she knew whether the parent had showed up, so that she could more effectively advocate for mediation in the future.

Stipulation helps families because they "don't have to go through the trauma of trial and testifying against each other."

Judges Refer All Cases

All of the judges were very much on board with the program, referring all or almost all cases to mediation and trusting that the program would weed out those not appropriate for mediation. Despite the fact that they refer all cases, some judges did think that mediation was not appropriate in some cases. One judge cited rare instances in which mediation could not be fit into everyone's schedules before the 45-day deadline for trial for a non-removal case, or in which the parents were unable to attend because they were in the hospital or were similarly indisposed. For another judge, inappropriate cases were those in which emotional abuse was so severe that the parents can't be in the same room together and even phone mediation would be problematic. This judge still referred those cases, saying that she trusted the program to make the right decision about whether and how to proceed with mediation.

Two judges were clear that all cases should be referred to mediation because it's always helpful. For one, this is because it is important to try to always involve the families; parents should always

participate in resolution because it has to do with how they parent their child and gives them some amount of control. The other judge stated that she didn't "want the opportunity to not refer cases." In other words, she wanted it to remain mandatory because even without stipulation, it was productive to sit down and talk about the case.

All the judges except one tended to believe that attorneys appreciate mediation and, therefore, have no interest in objecting. One judge seemed to accept that parties decline to go to mediation. He had cases that he didn't think would be successful in mediation, mainly because the parties were too emotional. In those cases, if the parties said they wouldn't go, he told them he'd be taking that into consideration, but that there were no consequences for it.

Timing

The judges gave varied responses to the question of when the ideal timing for mediation is. Only one judge thought the deadline needed to be changed. Three said the current deadline was working well. Beyond that, there was a difference of opinion as to whether mediation should take place as soon as possible or if it should wait for a week or more.

Two of the three judges who believed mediation should be delayed provided a lower limit. One judge said mediation shouldn't be within ten days, because it needs to be late enough that the parents have had time to cool down and be less emotional, to be able to walk into mediation with a different lens; otherwise they will not agree to stipulate. Another judge said within a week would be too soon as attorneys representing the parents need time to develop a rapport with their clients so the parents trust them in mediation. The third judge based timing on whether some discovery had been completed. Although there isn't a timeframe involved, the judge said that mediation probably does take place before this, since they usually don't have sufficient information until about 60 days after the initial hearing.

Of the three judges who believed mediation should be conducted as soon as possible, one said mediation would ideally take place within a week of the initial hearing. This gives the parents a few days to calm down, but they haven't been away from their children for too long; they can start doing what they need to do to have their children returned as soon as possible. Two others said it should take place within a few weeks, but still believed there was no time that was too early, beyond giving the attorneys a few days to talk with their clients. These judges said the sooner, the better: the parents would not have dug in their heels, and everyone involved in the case could start talking and understanding the issues. For all three, simply getting the ball rolling in the case appeared to be the most important role for mediation.

Characteristics that Affect Likelihood of Success in Mediation

The judges saw the parents and lawyers as instrumental in the success of mediation, which they had earlier defined as reaching agreement. In answer to what characteristics of the case or parties increase or decrease the likelihood of success, most focused entirely on the participants. Five talked about the parents being open and ready to accept responsibility for what is happening, of their being cooperative and forthright. On the other side, parents who do not own up to their part or don't participate, or who are highly emotional, can inhibit success. Lawyers who are collaborative and who are able to explain what's going on to their clients contribute to a mediation's success, while those who are litigious, more

focused on their ego and on winning, or just get in the way decrease the likelihood of mediation ending in stipulation.

Other characteristics that can negatively affect whether mediation will end with an agreement include a parent's mental illness or substance abuse and presence of a companion criminal case. However, companion criminal cases can be successful with an Alford stipulation.

Effect of Mediation on Post-Mediation Hearings

As mentioned above, the judges don't know whether mediation occurred or not, although this is recorded in the court's case management system. A few said that they thought all cases were mediated; since all cases were ordered to go, they assumed that mediation took place. Only one judge indicated a desire to know whether a case mediated, however. She said that if he was notified that mediation didn't happen, he could cancel the disposition. This judge said it would also be helpful to know if family members don't show up for mediation so he could reinforce the value of mediation. However, not knowing was not a "huge deal."

Despite not knowing whether a case was mediated, some judges indicated that they saw a difference among parental attitudes that they attributed to mediation. One said that if parents have stipulated, they are more open about what "went down" and express a willingness to participate in the process, although she wasn't sure how much was attributable to mediation. For another, stipulation changes the conversation; it is no longer litigious because everyone wants the same thing.

One judge said that parents are more accepting of services and the hearings go smoother after mediation. Another said parents are calmer if they have attended mediation. They are also more willing to work with their attorney. She said that the second time she sees them, parents often show a totally different personality and aren't as upset. Similarly, another judge said that mediation allows parents to hear from other parties and understand what they are up against. If they don't "get it," he can tell.

Two judges didn't know if there were any differences in how parents approach hearings based on whether they attended mediation or not. One didn't talk about a difference in parental attitude, so much as saying that if a parent doesn't go to mediation, it could be an indication that they have already checked out, or that they need control and will do things in their own time.

Program Strengths

The judges noted that they didn't know how the program itself functions, so all but two responded to this question by talking about the benefits that they believe mediation provides. Three talked about the ability to reach resolution in mediation. More common, though, were responses about how mediation affects the parties. The judges pointed to how it opens up communication and builds relationships, gives parents control that they didn't have at the initial hearing and offers them their first opportunity to feel heard. It helps parents attempt address underlying issues. It's a better way to "work things" and is an opportunity for parents and attorneys to come together outside of the courtroom. One noted that if "parents see up front that the agency [Child and Family Services Agency] is there to help them and is putting services into place and is willing to work with them, they can create a better relationship."

Of the two judges who responded differently, one said that she didn't know what the program's strengths were. The other said the program's strength lay in the qualified mediators who were both

skilled in mediation and had substantive knowledge. They are also always available, so there are no problems scheduling mediation.

Program Challenges

Only four judges had an answer for what the program's challenges were. Two of these said the program's main challenge was scheduling. However, when prodded, the judges clarified that the scheduling challenge was more for permanency mediations than for pre-trial mediations. A third judge said that the program's challenge was in educating judges about mediation so they could more effectively promote it. One judge focused on the timing of mediation: when mediations are scheduled within a couple of weeks from removal, it may be too soon.

Two judges talked about minor difficulties with filing the stipulation. They believed that it was important for the stipulation to be filed just after mediation. However, one noted that if the mediation runs late, the parents sometimes need to leave before the stipulation can be filed. The other judge noted that parents will disappear between mediation and getting to the courtroom to file the stipulation if there is a time lag between the two.

Judges' Recommendations

Only four judges had recommendations for improvement. Each of the recommendations was made by only one of the four judges:

- Have mediation take place closer to 6 weeks from the initial hearing for removal cases and 30 days for non-removal cases. Extending the deadline may help because cases are more complicated since 2015, when CFSA changed how they deal with cases, and can provide more information to parents if the mediation is later. This will help them to process things better.
- Attorneys should inform judges about the status of stipulations, and what the sticking points are so that judges can push them toward agreement before the next hearing.
- The program should notify judges if mediation didn't happen or if there wasn't a stipulation. If they are notified, the judges can cancel disposition and free up court time.
- More staff and maybe 1-2 Saturday mediations per month. Parents are employed and it's not easy for them to get time off.
- Decorate mediation rooms so they are more aesthetically pleasing, cheery and inviting.
- It might help to remove attorneys from the mediation. The mediator can just talk with the parents and maybe the social worker and ask "How can this be resolved?" Then bring the attorneys back in. [By judge who had participated in a significant number of pre-trial mediations]
- The program should continue. The Abuse and Neglect Calendar benefits tremendously from the program.

Other Comments

In the course of the interviews, the judges talked about issues or topics that weren't easily categorized. They are presented here.

- One judge said that if the parties don't stipulate she goes over the stipulation at the next hearing line by line to get an agreement, essentially facilitating "mediation #2."

- Another judge spent some time discussing the watering down of stipulations. She is concerned that stipulations don't encompass everything that the family needs to deal with. She can't address issues that ameliorate the conditions that brought the child into care, or, if she does, she's not sure that it's fair to the parents. (This is a theme that was present in the focus groups, as well.)
- There has been an increase in non-agreements lately, according to one judge. The judge believes this is due to CFSA taking too long to bring cases into court. The issues are then entrenched and more complicated. Some of this is because of a philosophy of preventative work and decisions not to bring children in. However, it is making it harder to address the issues.
- When the program was first created, there was a hesitancy in the Counsel for Child Abuse and Neglect panel because they didn't want mediation to be a tool for the government only. But they grew to understand that it was good for getting information and narrowing the issues, and that they get more information than if they hadn't gone through mediation.
- Standard of proof should be discussed at mediation.

DISCUSSION

The judges are all supportive of the mediation program. The five judges who had been AAGs, GALs or parent's attorneys before joining the bench were more likely to see the benefits that the program brought to the parents and the professionals beyond reaching agreement on the stipulation. They all saw the benefit of all those involved in the case sitting down together to discuss the legal issues, but also to enhance relationships and gain clarity.

The judges all believed that mediation was accomplishing what it should be, and they referred all or almost all of their cases to mediation. All but one said the 30-day deadline was fine. However, they differed on whether mediation should occur as soon as possible or should hold off to be closer to the deadline. All want the program to continue.

STAFF MEETING

Four members of the Multi-Door Abuse and Neglect Mediation program staff provided their input into how the program is running and their recommendations for improvement at a meeting with the evaluator. During the meeting, they and the evaluator explored their part of the program process, what's working well and what challenges they face in ensuring that the process runs smoothly. They also talked about what they would do to improve their role and the program.

It was clear from the discussion that the staff is passionate about the use of mediation in the abuse and neglect context, and sees benefits other than stipulation as paramount. Thus, they require mediation to go forward even when stipulation has been agreed upon beforehand. Much of their time was spent discussing the issues they face, but they also had thoughtful recommendations for addressing them.

Method

The staff meeting took place in May 2017, and included two case managers, the program manager and the program director. It consisted of a semi-structured discussion, lasting about 90 minutes.

STAFF COMMENTS

What Works Well

The case managers' work on each case begins with receiving the court order, petition and initial hearing report. These provide the necessary information about the case, including the date and time of the mediation, who the professionals and parents are, how many children are involved and, sometimes, whether there is a history of domestic violence. This part of the process is going well for them. With this information, they are able to schedule the mediator, communicate with those involved in the case and, possibly, prepare to put domestic violence protocols in place. They appreciate that the case is scheduled in court and that they do not have to try to schedule the mediation among all those involved.

In addition to this, the 30-minute grace period is important to program staff, and they believe it is working well for the participants. (This is the amount of time everyone must wait before cancelling the mediation due to an essential person not appearing.) The staff also believe the program's neutrality is a benefit, providing a safe space for parents, in particular, to discuss the case and their concerns.

Challenges

Staff spent much of the time talking about the challenges that they face and issues with the program. These challenges start with the scheduling of the mediation and end with their report on the mediation.

Scheduling

The staff believe appropriate scheduling of the mediations is a big challenge – not for them, but for the participants. Because the attorneys have entire weeks in court, and the mediation must be scheduled within 30 days of the initial hearing, mediations are often scheduled too soon, when no one has had the

chance to get done what they need to before mediation, such as parent's attorneys meeting with their clients.

Communication

Once the mediation is scheduled, communication between the professionals and the program becomes essential in order for the day of mediation to run smoothly. The staff noted a couple of challenges with this communication.

It is important for parent's attorneys to let the program know if there are special circumstances, such as an incarcerated parent. This allows the case managers to make the appropriate arrangements, such as setting up a phone conference with the jail or prison so that the parent can participate in mediation or scheduling a translator. The case managers said that the parent's attorneys are generally good about doing this, but at times wait until the day of mediation, which doesn't give them time to do what they need to do. Parent's attorneys also tend to communicate with one case manager, and if she is off the other case manager doesn't get the information.

Another area in which communication is challenging is cancellations. The case managers say that there are times that the attorneys decide to cancel mediation among themselves but don't let the staff know. The mediators then waste a lot of their time traveling to mediation and waiting for the parties. The program is also not told when the case is dismissed or a stipulation is filed before mediation. The case managers have addressed this by looking up each case the day before.

Preparation

By court rule, the professionals are supposed to submit reports to the program two days before the mediation. The case managers said that they often don't receive the reports. The staff also noted that the parent's attorneys sometimes don't meet with their clients until they arrive for mediation, although by court rule they are supposed to meet with them beforehand. This delays mediation and makes the parents and their attorneys unprepared to participate in mediation. Mediation is also delayed by professionals arriving late.

The staff's frustration with these challenges is that although the court order requires the professionals to submit reports two days before the mediation and the parent's attorneys to meet with their clients before mediation, there are no repercussions for non-compliance. They have no authority to compel the professionals to comply with the court order, and they do not submit reports to the judge about the professionals' compliance.

In mediation

The issues the case managers identified as affecting mediation tend to be due to lack of buy-in by the professionals. The staff believes that the mediation is now driven by legal issues, which speeds up the process too much and doesn't give parents the time to come to understand their situation. When mediators try to slow it down, they get pushback from the professionals. The case managers noted that some CCAN attorneys are creating problems by phoning in for the mediation, rather than participating in person. They say this is a disservice to the other parties and the process.

After mediation

The staff believe that if the judge were informed of compliance with the order to mediation, such as attendance and participant timeliness, the professionals might treat mediation more seriously. At this point, there is no way to communicate this information.

Staff Recommendations

In response to the challenges they see, the staff proposed a number of modifications to the way things currently work.

Create a general program email address for all communication

To ensure that both case managers get all emails regarding mediations, the staff suggested a new, general email address for all communications to the program. This has been done since the meeting.

Set up a better method for communicating when cases have been cancelled

Too often, staff aren't notified when the attorneys decide to cancel mediation. They want to address this by creating a standard method for notifying everyone of cancellations, whether by having the attorneys go through a formal motion to vacate or through some other process.

Create a method for post-mediation reporting

The staff thinks it would be helpful for the judge to know if the parties have complied with the court order for mediation. They suggested that they could scan the sign-in sheet for the mediation and upload it into the case on the court's system.

Train professionals to better understand their role in mediation and the mediator's role

The staff believes Assistant Attorneys General and the parent's attorneys could benefit from training on their role in mediation and how to advocate for their client, as well as the roles of everyone else in the mediation. Training would help mediation be more effective and inclusive of non-legal matters.

Provide training for mediators

Staff believes mediators would benefit from trainings for mediators about the issues involved with abuse and neglect cases. The court, the agencies and the program should collaborate to provide those trainings.

Bring the program manager into the decision-making structure

The staff believes the program would be more effective if the program manager or program director were to be on the Abuse & Neglect Sub-Committee. This would help to establish relationships with the judges and the agencies involved. The program would also know what is happening within the child protection system and have input on policies that affect it.

DISCUSSION

Many of the staff's challenges echo those that the professionals and mediators discussed in their focus groups. They note that reports aren't being submitted regularly or on time' the parent's attorneys may not discuss the stipulation with their client before mediation, which delays the mediation; and professionals don't communicate cancellations or needs until the day of mediation.

The staff also noted some issues with the mediations themselves, including the parent's attorneys phoning in for the mediation and the professionals' focus on the legal issues. The issue with phone-ins

was also noted by professionals, who saw it as being detrimental to the mediation, both in the focus groups and surveys. Since this meeting, the program manager has clamped down on phone-ins, which reportedly have become less common. The focus on the legal issues was also an issue for many professionals and mediators in the focus groups, who wanted more out of mediation than stipulation.

In sum, the staff have identified issues similar to those identified by professionals and mediators and they have begun to address those issues. Their recommendations that should be considered are post-mediation reporting, a better format for pre-mediation communication, and education and training for professionals and mediators.

Appendix A

Glossary

APPENDIX A: GLOSSARY

PEOPLE INVOLVED IN THE CASE

Parent: In this evaluation, the parent is the child's natural mother or father.

Professional: Professional is the term used in child protection cases to refer to the attorneys and social workers responsible for the case. These include:

- Assistant Attorney General (AAG): Counsel for the government, who also acts as the social worker's attorney in these cases
- Parent's attorney: Each parent is represented by separate counsel; generally, these private attorneys are appointed from the Counsel for Child Abuse and Neglect (CCAN) panel, which is maintained by the court
- Guardian ad litem (GAL): Counsel for the children; GALs are appointed from the CCAN panel
- Social worker: Each family is assigned a case worker from either the District of Columbia's Child and Family Services Agency (CFSA) or a private agency

PROCESSES

Petition: When an investigation leads CFSA to decide that a child is in danger, a petition is filed with the court to take the child into shelter care.

Family team meeting (FTM): When a petition is filed, a family team meeting should be held within two days. The purpose is to identify a temporary placement for the child, as well as start to outline what services and assessments will be needed for the parents and children. The parents, family members with whom the children might be placed, a social worker and social work supervisor, the assigned AAG and the assigned GAL will all be present.

- Services: This term is used to refer to the help that parents and children will be provided so that the family can be reunited or removed from the court's jurisdiction. These can include therapy, anger management classes, parenting classes, or rehabilitation for the parents. For children, the services may include therapy, assistance in school, and so forth.
- Assessments: These would be ordered if there is a mental health or substance abuse concern.
- Placement: When a child is removed from her parent, a temporary home is identified. Preference is for a child to be placed in a relative's home.

Initial hearing: This a probable cause hearing that must take place within 72 hours of the filing of the petition. The social worker must demonstrate that reasonable efforts were made to help the family prior to filing the petition. The judge then determines whether it is probable that the child is in danger.

Stipulation: This is an agreement between the parent and the government as to the facts of the case. It is not an admission of guilt; it is an agreement that the court could reasonably find that the child met the definition of being neglected or abused.

Appendix B

Methodology

APPENDIX B: METHODOLOGY

This evaluation looked at both the process followed by the program and the outcomes of the program. The process followed by the program is the entire set of activities from deciding which cases to send to mediation to the report on the mediations after each session. The interest in studying the process was two-fold: to see if the process was what the court and program intended it to be and to see if there were any issues with the process that needed to be addressed in order to improve the efficiency and effectiveness of the program. This aspect of the program was examined through case data, participant post-mediation surveys, mediator post-mediation surveys, focus groups of professionals and mediators, interviews with judges and parents, and a meeting with the program staff.

The main purpose of looking at outcomes is to determine whether goals are being achieved, intended impacts are being effected and participant experience is positive. These were examined through case files, interviews and post-mediation surveys.

METHODOLOGY

This evaluation used a mixed methods approach, meaning that both quantitative and qualitative data were used to examine the same variables. Quantitative data was obtained from:

- The court's case management system, Court View
- The mediation program's spreadsheet of mediations

Qualitative data was obtained from:

- Participant post-mediation surveys
- Mediator post-mediation surveys
- Focus groups of professionals and mediators
- Parent interviews
- Judge interviews
- Observations of mediations

The data was collected for two time periods: January 1, 2013, through December 31, 2014, and April 1, 2017, through October 31, 2017. The 2013-2014 data was used for assessing program performance. In particular, this data was used to determine the effect of mediation on the probability of stipulation, the time to stipulation, parental compliance with services and the number of hearings held. Additionally, basic statistics regarding whether cases were mediated and whether the mediation ended in agreement were gathered to compare to 2017. Data gathered in 2017 was used for three purposes: to compare outcomes to 2013-2014, to assess the effect of mediation on the participants and to examine the program process.

2013-2014 Data

Case Management Data

The evaluator worked with the Family Court Data Analyst and the court's IT department to create a spreadsheet of cases from the court's case management system that would enable comparison of mediated cases to those that were not mediated, as well as the effect of timing of mediation on outcomes. The spreadsheet included all cases filed between January 1, 2013, and December 31, 2014. It included background information on the cases, dates of hearings and outcomes.

Background information included:

- Number and ages of children
- Type of allegation
- Whether the child was removed
- Whether there was a companion criminal case

Timing information included:

- Date petition was filed
- Date of all court hearings
- Date of referral to mediation
- Date of mediation
- Date case closed

Outcome information included:

- Whether stipulation was filed
- Whether case was mediated
- Outcome of mediation
- Final disposition: return, adoption, guardianship, etc.

Mediation Data

Additional information about the cases was derived from the mediation program's spreadsheet of cases referred to mediation. This spreadsheet included all cases scheduled to mediate from January 1, 2013, through December 31, 2014. Included in this spreadsheet were:

- The scheduled date of mediation
- Whether mediation occurred
- The outcome of the mediation
- The reason the case did not mediate (cancelled, no-show, etc.)

Background

In 2013-2014, petitions were filed for 511 families. Of these, 82 were not-petitioned (meaning the petition was withdrawn), were dismissed or had an immediate trial. These were not comparable to mediated cases and were therefore removed from the dataset. The other 429 were used for analysis. Of these, 419 were referred to mediation, and 301 were mediated prior to the end of 2014.

Comparison of Mediated Cases to Not-Mediated Cases

Probability of stipulation and time to permanency

The two essential components for analyzing the effect of mediation on probability of stipulation, time to permanency, compliance, and number of hearings were the spreadsheet derived from Court View and the program's spreadsheet of cases referred to mediation. The court creates a separate case for each child, but mediation is handled on a family basis. That is, each mediation involves all the children brought into care from a single family. Therefore, analysis needed to take into account the probability of results being skewed due to family size: a family of nine children would have a greater impact on the results than a family of one child. The cases in the court spreadsheet were therefore collapsed into families.

This left another issue: not all children in the same family had similar mediation outcomes or similar permanency outcomes. Therefore, one child needed to be selected to represent the family. To be conservative, the “worst” individual data points were selected across the multiple measures of interest and assigned to the family. For example, if two of the three children in a hypothetical family had six hearings each, but the third child had eight hearings, a hearing count of eight was assigned for that particular family. Or, if only one child experienced a change in permanency goals—perhaps a final goal of guardianship rather than the initial goal of reunification—while the other children in the same family did not, that family would be coded as having experienced a goal change.

While it is straightforward to conclude that ten hearings is “worse” than five, or that 600 days to permanency is “worse” than 400, judgment calls were made on some items such as the action alleged in the complaint filings. Allegations were ranked according to assumed severity, from least severe to most severe —neglect, without proper parental care, unable to discharge parental care, refuses or is unable to assume responsibility, abandonment, imminent danger of abuse and, finally, abuse. Similar judgment was exercised with respect to goals. Given that reunification is generally the goal for each child, it was deemed the least “severe” goal, followed by custody, then guardianship and, finally, adoption.

To assess the efficacy of this methodology of creating a “worst case” child, a second round of analysis was done using the youngest child to represent the family. The results were similar, demonstrating that the method of selecting a representative child did not influence the results.

Regression models were run that included family characteristics, such as age of youngest child number, of children and whether the child had been removed. Models were run that also included allegation, whether a companion criminal case was involved and what the initial goal for the child was. The initial goal was included as a proxy for the severity of the situation, with the understanding that for very severe allegations, the initial goal would be adoption. The same would be the case for parents who had previously had children who were brought into care, who were then adopted. These two groups of parents – those with very severe allegations filed against them and those who had previously lost their parental rights to a child – were thought to be less likely to participate in mediation.

Compliance

Sixty matching cases from the 2013-2014 data set were selected for analysis. Thirty of the selected cases had been mediated, thirty cases had not. The cases were matched on whether the child was removed, whether a stipulation was entered, the type of action (abuse, neglect, and so on), the initial goal, the age of the youngest child and the number of children. For each case, a researcher from the Court Services

Division copied the reports in court orders regarding progress on services and compliance by parents. These were then blind coded by the evaluator as compliance, no compliance, unknown and not applicable.

Cases were coded as compliance if the reports indicated that the parents complied with services until case closure or that they had complied for at least two years after mediation. They were coded as no compliance if the reports stated they did not comply. Those that were marked as not applicable were those in which guardianship or adoption was the initial goal. This was done with the idea that compliance with services was not a significant factor in these cases since the child was not going to be returned home. Seven cases were coded as “not applicable.” If there were no reports on the case indicated whether the parent complied or not, the case was coded as unknown. There were nine of these. When a case was coded as not applicable or unknown, the pair was discarded from the dataset, leaving 15 of 30 pairs of cases.

It was hypothesized that those cases for which compliance was unknown were those in which the parent had either not complied or stopped complying early on, and therefore should be coded as not complying. This hypothesis was tested by checking whether the goal was changed for those cases. For each, the goal had been changed from reunification to adoption. This supported the hypothesis, although it was understood that there are other reasons for a change in goal than parental non-compliance. The analysis was rerun on 23 pairs of matched cases in order to obtain a more robust finding, with the understanding that the results would not be completely valid.

As a check on the coding of cases for compliance, the outcomes of cases were compared for cases that were coded as the parents being compliant and those that were coded as not complying. Of the 27 cases in which the parents were coded as compliant, only five ended in adoption or guardianship, 17 ended in reunification, and the others were either dismissed or custody granted. All 17 that were coded as not compliant ended in adoption. This would support the correct coding of the cases as parents who comply with services are more likely to have their child returned home.

Timing of Mediation

The effect of the timing of mediation on whether an agreement was reached on the stipulation at the mediation was explored through chi square analysis. To determine whether there might be a minimum number of days after the initial hearing that the mediation should occur, two-by-two chi squares compared cases that mediated at the following timeframes:

- ten days or fewer v more than ten days
- 15 days or fewer v more than 15 days
- 30 days or fewer v more than 30 days

2017 data

Mediation program data

Program staff maintained a spreadsheet of cases referred to mediation during the study period of April 1, 2017, to October 31, 2017. This spreadsheet included the background information for the mediation, pre-mediation report submission, and status of the referred cases.

Background information:

- Mediator
- Date of initial hearing
- Mediation date
- Scheduled time for the mediation

Pre-mediation report submission:

- Whether the guardian ad litem, social worker, parents' attorneys and Assistant Attorneys General submitted their reports
- Date the reports were submitted

Outcomes:

- Whether the case was mediated
- Reason it wasn't mediated
- Outcome of mediated cases

From April 1, 2017, through October 31, 2017, 124 mediations were scheduled. Of those, 96 were held. The other 28 were either cancelled beforehand or were not held because at least one parent didn't appear.

Sign-in sheets

For each mediation, the participants are asked to sign in with the time they arrived. The sign-in sheet included the case number and the scheduled start time. The staff added the time the mediation started and the reason it was delayed. At the end of mediation, the staff scanned the sign-in sheet and emailed it to the evaluator. The evaluator then used the information provided to determine the amount of time spent waiting, who was late and whether there was any other reason for the mediation to be delayed.

A mediation was determined to be delayed if it began more than 15 minutes after the scheduled start time. The participants were also considered to be late if they arrived more than 15 minutes after the scheduled start time.

Post-Mediation Surveys

All mediation participants and mediators were asked to complete post-mediation surveys for each mediation conducted during the study period (April 1, 2017-October 31, 2017). Both parent surveys and professional surveys included questions that had been previously tested in the field for a similar population.

Parent surveys

Parent surveys were designed to assess whether the program's goals of increasing parent's understanding of others' points of views and of their own situation were being achieved. They were also designed to determine whether the program was providing a quality experience to the parents. That is, were parents experiencing procedural justice, and did they find their experience in the mediation to be satisfactory?

At the end of each mediation that was held from April 1 through October 31, 2017, parents were asked to complete a paper survey regarding their experience. The first page asked four questions required for

end of year Multi-Door Courthouse reporting: satisfaction with the process, satisfaction with the outcome, satisfaction with the mediator and whether an agreement was reached. The second page was specific to the evaluation and asked a series of questions that delved into greater detail about their experience. The questions were structured around the themes of understanding, how the parents felt they were treated, and the parents' sense of whether mediation was helpful to them.

The surveys were scanned and uploaded to a secure cloud-based folder that was shared with the evaluator. From there, the surveys were read into Remark, optical mark recognition software, for analysis.

In all, 84 of 139 parents who participated in mediation during the study period submitted surveys. This is a 60% response rate. Of the 139 parents who participated in mediation, 18 participated by phone, and, therefore, were not available to complete the survey. Of the on-site parents, 69% completed the survey. The surveys covered at least 80% of the mediations. (A few of the surveys did not have case numbers associated with them.)

Of the 84 parents who completed the survey, 49 (58%) were mothers, 33 (39%) were fathers, one was a guardian and one was a grandmother.

Professional surveys

As with parent surveys, professional surveys were designed to assess whether the program's goals were being achieved. For professionals, these were increased understanding of others' points of view and the family's situation, and communication among the professionals. They were also designed to determine whether the professionals were experiencing procedural justice. The third purpose was to gain insight into what benefits the professionals were seeing from the mediation.

After each mediation ended, the case managers emailed the mediation sign-in sheet to the evaluator. The evaluator then emailed a request to each professional who participated, and for whom contact information was available, to complete a survey online. This email was almost always sent within 24 hours of the mediation. A reminder email was sent two days later to those who had not completed the survey. Because professionals can sometimes mediate more than once within a week, a third reminder was not sent, as it could easily have overlapped the professionals' next mediation, making multiple requests to complete surveys confusing. Further, it would be difficult for the professionals to remember what happened in the mediation beyond 72 hours.

In all, 91 professionals answered at least part of the survey, and there were 86 complete responses. Three responses were excluded because they were for a case that did not mediate because the parent did not show up. Thus, the sample size is 88, with 83 complete responses. A total of 411 surveys were sent, which gives a response rate of 21.1%.

Since many of the professionals participated in more than one mediation, some completed more than one survey. A total of 145 different professionals participated in mediation during the study period, and 58 of them responded. This means that there was at least one survey response from 40% of those who participated. The sample is skewed toward parent's attorneys and guardians ad litem (GALs), who were responsible for 63 of the 88 responses. GALs were the most representative, with 28.4% of those who participated in mediations responding.

Surveys were received for 62.5% of the mediations held, as there was at least one response for 60 of the 96 mediations. More than one professional responded for 20 mediations, with a range of two to four responding per mediation.

Mediator surveys

Immediately after each mediation, program staff emailed the sign-in sheet for the mediation to the evaluator, which included the name of the mediator. The evaluator then sent the mediator an email within 24 hours asking her to complete an online survey. If the mediator did not respond within 48 hours, a reminder email was sent.

Mediators completed surveys for 84 of 96 mediations (88%) during the study period. Surveys were completed by 20 of the 21 mediators who mediated during this time.

Interviews

Many, if not most of the benefits of mediation depend on the parents' experience of the process. Therefore, whether mediation is working for them and providing intended benefits is key to whether it is a worthwhile and viable program. Parent interviews were included in order to obtain richer information about their experience than surveys alone could provide.

Judges were interviewed as part of the evaluation for two reasons. First, as the work of the judges can be affected by the effectiveness and efficiency of the mediation program, it was important to find out how well they saw the mediation program as functioning. For the same reason, their support of the program is essential to maintaining the program. Second, the judges have a unique perspective on the program that could assist in determining what is working well and whether there were areas that need improvement.

Interviews of parents and judges were semi-structured. In this type of interview, each interviewee is asked the same set of questions, but follow-up questions particular to each interview are asked in order to elucidate and expand upon the original responses.

Parent interviews

Only parents whose mediation the evaluator observed were invited to be interviewed. Therefore, the sample was based on convenience, and was not fully random. However, there was very little self-selection by the parents, who decided prior to the mediation whether to consent to be interviewed; most who were asked gave consent once the compensation was increased to \$20.³⁵

Before mediation, the case manager asked the parents and their attorneys if they would be willing to speak with the evaluator about being interviewed after the mediation. Those who agreed were shown into a separate room to meet with the evaluator. If more than one parent was present, each met separately with the evaluator in the presence of their attorney. The evaluator explained the evaluation, the purpose of the interview, the benefits and risks, and that the interview was voluntary and

³⁵ Originally, the parents were offered \$10 as compensation. This was increased to \$20 after most parents did not agree to be interviewed when the compensation was \$10. The percentage of parents giving consent rose greatly once compensation was increased.

confidential. They were also told they would be compensated \$20 for the interview. If they agreed, the parent signed a consent form. The parent was also asked for consent to be recorded. Only two agreed.

Directly after the mediation, the parents met alone with the evaluator, who conducted the interview in person³⁶. The interviews took place between May 2017 and April 2018, and lasted from 15 to 40 minutes.

The interviews were coded by the evaluator, with the codes indicating when a mediator action was seen as enhancing the discussion or providing benefits to the participants, or when the discussion itself led to benefits to the participants. Benefits to the parents included gaining voice and greater understanding of the court process and their responsibilities. Benefits to the professionals included enhanced communication, better understanding of the family's situation, and more information about the case.

Judge interviews

All eight judges who hear abuse and neglect cases were interviewed, as was a departing judge who had been involved in developing the pilot mediation program. The judges were interviewed in their chambers from November 2016 through October 2017. The interviews lasted between 30 minutes and an hour.

Focus Groups

Five focus groups were held, encompassing attorneys for the children, attorneys for the parents, government attorneys, social workers and mediators. The purpose of the focus groups was to gain insight into what these groups want from mediation, to get their perspectives on the program and the process, and to solicit their recommendations for improvement.

In order to have homogenous groups, the focus groups were divided by role in child protection cases. One focus group was conducted for each role, comprising a total of 37 professionals and nine mediators. The groups were:

- Children's Law Center guardians ad litem
- Counsel for Child Abuse and Neglect
- Assistant Attorneys General
- CFSA social workers
- Mediators

The five focus groups involved seven to 11 participants each, with each focus group lasting approximately 90 minutes. Prior to each focus group, the participants were asked to sign consent forms for both participation and recording.

The focus groups were run by an experienced facilitator, with the evaluator taking notes. The focus groups were recorded, and the recordings were transcribed by a professional service. The evaluator and her assistant then each coded the transcripts separately and jointly reconciled differences.

³⁶ Two parents who needed to leave directly after the mediation ended were interviewed by phone about twenty minutes after the end of the mediation.

Mediation Observations

The evaluator's observations of mediation provided context to the evaluation, particularly the survey responses, interviews and focus group discussions. They also gave independent evidence of the added value of a discussion that is facilitated by a neutral, as well as the benefits accrued to the participants. Observations were also used to determine if mediators were following the program's protocol for the introductory phase of the mediation. The observations occurred at intervals between February 2017 and April 2018.

For the 18 observed mediations, the case managers obtained verbal consent from all participants to be observed prior to the mediation. The evaluator also introduced herself to the mediator. For all but one mediation, the evaluator observed from an adjacent room with a two-way mirror and an intercom. In the other mediation, she sat in the corner of the mediation room.

The evaluator who observed the mediations is a trained and experienced mediator who has previously observed more than 30 child protection mediations. She took extensive notes during the mediations and coded those notes afterward in terms of what the mediators did during the mediation and what the participants gained. The notes included no names or identifying information beyond the case number.

Hearing Observations

The evaluator observed three initial hearings and nine disposition hearings over the course of the study period. The original purpose for observing disposition hearings was to assess parental compliance with services and the process. However, it was evident early on that the variables among both parents and cases were too great to obtain this information through observations. The observations were then used to understand how mediation fit into the court process, particularly how communication and parental voice compared between the hearings and the mediation.

LIMITATIONS OF THE STUDY

The examination of program performance was limited in a number of ways. The comparison between cases that were mediated and those that were not depended on the use of statistical models that could not take into account all variables that could influence whether a parent participated in mediation or complied with services, or how long a case would take to achieve permanency. To account for this limitation, the initial goal for the case was used as a proxy for some of those variables. These included severity of the allegation and the probability that a parent was engaged in the process from the outset.

The court database only stated what the allegation was, not how severe it was. This information is insufficient to know how severe the abuse was, for example, or whether it was sexual or physical abuse. It also couldn't be determined from the court database whether a parent was at all engaged or wanted to attempt to reunify with her child. It was assumed that an initial goal of adoption would indicate that the allegation was so severe that the court did not consider reunification as an option, or that the parent had showed no indication that she was willing to work to reunify with her child.

In addition to the use of a proxy, the study was limited by the lack of data for time to permanency and compliance. Nearly a third of all cases were still open at the time the data was obtained in April 2017, and nine of 60 cases used for the compliance comparison lacked the necessary information to determine whether the parent complied.

The assessment of program performance also relied on survey data. The response rate for parents was high enough to be comfortable that the surveys represented the opinions of all parents who mediated, and mediators provided feedback on enough mediations to come to the same conclusion about their responses. However, the response rate of professionals was very low, representing only 21% of all surveys sent. Further, they were highly skewed toward GALs and parent's attorneys. Nonetheless, their responses to the surveys reflect what the focus group participants said, providing some indication that the survey responses, at the least, represent the opinions of GALs and parent's attorneys as whole.

Appendix C

Evaluation Instruments

FOCUS GROUP QUESTIONS - Attorneys

90 minutes

INTRODUCTION

1. Welcome
2. Introduce ourselves
3. Introduce RSI & the evaluation
4. Introduce the topic – state that we will be talking about mediation (what happens in the mediation itself) and about the mediation program as a whole, including all the program processes.
5. Set out the ground rules for the focus group
6. State that we will be recording, but that no names will be attached to the comments.

OPENING QUESTION [Quickly around the table – both questions answered at the same time]

1. What is your name? [For CCAN's, are you parent's attorney, GAL, or both?]
2. If you could go on your dream vacation, where would you go? [Warm up question]

TRANSITION QUESTIONS [Quick questions to transition them into the topic at hand]

3. Ballpark – how many times have you participated in mandatory mediation?
4. First thought – you look at your schedule and see you have a mediation tomorrow. What is that thought?

KEY QUESTIONS [Meat of the discussion]

5. What is your goal for mediation? [Note – be clear that this is for the mediation session]
 - a. Prod: Is mediation meeting that goal?
6. When you think about mediation, what benefits do you see
 - a. for the children?
 - b. for the parents?
 - c. for yourself as an attorney?
 - d. Prod if necessary: Are these real benefits that you see happening or theoretical?
7. When you think about mediation, what problems do you see:
 - a. For the children?
 - b. For the parents?
 - c. For yourself as an attorney?
8. What about the program works well? [Everything about the program that doesn't happen in the mediation room]
9. What about the program doesn't work well?
 - a. Prod: If they don't bring up timing for either #8 or #9, prod them about it.
10. Overall, how do you see mediation as affecting your workload?
 - a. Prod: What about after the mediation has ended?

ENDING QUESTIONS

11. What would make the mediation process work better for you?
12. Is there anything about your experience with the mediation program that hasn't been talked about that you think is important for us to know?

FOCUS GROUP QUESTIONS - Mediators

INTRODUCTION

7. Welcome
8. Introduce ourselves
9. Introduce RSI & the evaluation
10. Introduce the topic – today we'll be talking about your experience with the mediation program. You'll have a chance to talk about both how you view the mediation sessions themselves and the program as a whole. We want to know about the positives and the negatives.
11. Set out the ground rules for the focus group
12. We will be recording, but no names will be attached to the comments.

OPENING QUESTION

[Quickly around the table – both questions answered at the same time]

13. What is your name?
14. If you could go on your dream vacation, where would you go?
[Warm up question]

TRANSITION QUESTIONS [Quick questions to transition into topic at hand]

15. How long have you been mediating post-initial hearing mediations? (ballpark)
16. Why do you continue to volunteer to mediate these cases? (For staff mediators – why did you decide to take this position?)

KEY QUESTIONS [Meat of the discussion]

If they go negative too soon, bring them back to positive....

Don't give examples – this makes them focus on those examples

17. What is your goal for a mediation session?
[Note – be clear that this is for the mediation session]
a. Prod: Is mediation meeting that goal?
18. When you think about mediation, what benefits do you see
a. for the children?
b. for the parents?
c. For the professionals?
d. Prod if necessary:

Are these real benefits that you see happening or theoretical?

19. When you think about mediation, what problems do you see:
a. For the children?
b. For the parents?
c. For the professionals?

20. re you getting the reports you are supposed to be getting from the professionals in order to effectively mediate these cases?
21. What about the program works well?
[Everything about the program that doesn't happen in the mediation room]
Prod: Any aspect of case/parties that makes mediation more or less successful?
22. What about the program doesn't work well?
a. Prod: If they don't bring up timing for either #9 or #10, ask about it.

ENDING QUESTIONS

23. What would make the mediation process work better?
24. Is there anything else about your experience with the mediation program that hasn't been talked about that you think is important for us to know?

CHILD PROTECTION MEDIATION PARENT SURVEY

There are two parts to this survey. The first page includes questions that the program asks everyone. The second page is part of an independent evaluation of the mediation program. The evaluators are asking you to fill it out to find out how parents like you view the mediation. They also want to know if you are getting benefits from mediation. Your answers will be completely anonymous and your name will not be included anywhere. While your thoughts are very important to the evaluation, you do not have to fill out the survey.

Please fill in a circle for each question. Fill circles like this: ●

1. You are the child(ren)'s:

- ☐ Mother ☐ Step-Parent
☐ Father ☐ Other: _____

2. MEDIATION PROCESS

The **mediation process** offers:

- open discussion of issues with the other party
- fairness
- appropriate amount of time to be heard
- freedom from pressure or coercion

Given these concepts, how satisfied were you with the **mediation process**?

- ☐ very satisfied
☐ satisfied
☐ neutral
☐ dissatisfied
☐ very dissatisfied

4. OUTCOME OF MEDIATION

The **outcome of mediation** may include:

- a full or partial agreement
- an outcome satisfactory to all parties
- a better understanding of the other person's concerns
- better communication between you and the other person

Given these concepts, how satisfied were you with the **outcome of the mediation**?

- ☐ very satisfied
☐ satisfied
☐ neutral
☐ dissatisfied
☐ very dissatisfied

3. MEDIATOR'S PERFORMANCE

Mediators are expected to:

- explain the mediation process
- explain their role in the mediation process
- allow you to fully explain your issues
- understand the issues involved
- gain your confidence
- favor neither party
- help you to look at different ways to resolve the issues

Given these concepts, how satisfied were you with the **mediator's performance**?

- ☐ very satisfied
☐ satisfied
☐ neutral

5. Did you reach a written agreement during your mediation?

- ☐ Yes
☐ No

PLEASE TURN TO THE NEXT PAGE ⇒

- ☐ dissatisfied
☐ very dissatisfied

For Office Use Only: Date: _____

Mediation #: _____

- Page 2 -

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about all of the issues and concerns that were most important to me.
☐ I was able to talk about most of the issues and concerns that were most important to me.
☐ I was able to talk about some of the issues and concerns that were most important to me.
☐ I was able to talk about none of the issues and concerns that were most important to me.

Please fill in a circle from 1 to 5, with 1 being the lowest (not at all) and 5 being the highest (very much).

	Very much 5	4	Somewhat 3	2	Not at all 1
<i>QUESTIONS ABOUT UNDERSTANDING</i>					
3. Did the mediator understand what was important to you?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Did the other people at the mediation understand what was important to you?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did mediation help you to understand the point of view of the other people at the table?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very much 5	4	Somewhat 3	2	Not at all 1
<i>QUESTIONS ABOUT HOW YOU WERE TREATED</i>					
6. Did the mediator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Did everyone at the mediation treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. Did the mediator treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very much 5	4	Somewhat 3	2	Not at all 1
<i>QUESTIONS ABOUT CLEAR INFORMATION</i>					
9. Do you understand better what you need to do next than you did before the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Do you know when you will be visiting your child(ren)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<i>FINAL QUESTIONS</i>	Very much 5	4	Somewhat 3	2	Not at all 1
12. Was the mediation helpful to you?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13. Do you trust that the other people at the mediation want to do what's best for your child(ren)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
14. Would you recommend mediation to other parents?					
<input type="radio"/> Yes <input type="radio"/> Maybe <input type="radio"/> No					
15. What new thought or idea are you leaving with?					

CHILD PROTECTION MEDIATION SURVEY FOR PROFESSIONALS

NOTE: This survey was completed online.

Introductory Text:

This survey is part of an independent evaluation of the child protection mediation program. The purpose of the survey is to find out how mediation participants view their experience in mediation and whether mediation is providing particular benefits. Your answers will be completely anonymous and your name will not be associated with your responses. While your perspective is very important to the evaluation, you do not have to fill out the survey.

DATE OF MEDIATION:

1. What is your position?

- | | |
|---|---|
| <input type="radio"/> AAG | <input type="radio"/> Social Worker |
| <input type="radio"/> GAL | <input type="radio"/> Agency Supervisor |
| <input type="radio"/> Parent's Attorney | <input type="radio"/> Other: _____ |

This section asks about your experience in mediation.

Please fill in one circle for the following question.

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about all of the issues and concerns that were most important to me.
- ☐ I was able to talk about most of the issues and concerns that were most important to me.
- ☐ I was able to talk about some of the issues and concerns that were most important to me.
- ☐ I was able to talk about none of the issues and concerns that were most important to me.

For the following questions, please fill in a circle from 1 to 5, with 1 being the lowest (not at all) and 5 being the highest (very much).

	Very much		Somewhat		Not at all
	5	4	3	2	1
3. Did the mediator understand what was important to you?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Did the mediator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did the mediator treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Overall, was the mediation process fair?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	Very much 5	4	Somewhat 3	2	Not at all 1
6. Did mediation help you to understand the point of view of the other people at the table?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Did mediation help you to better understand the parents' situations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

⇒[If response is 1-3], reason mediation didn't help you to understand the parents' situations:

- ☐ I already understood the parents' situations well
- ☐ Our discussion was not productive
- ☐ Other: _____

8. What benefits derived from mediation? (Check all that apply)

- Agreement on stipulation
- Progress on stipulation
- Expectations were clarified for parent
- Visitation schedule was created/improved
- Services were added/improved for child[ren]
- Services were added/improved for parent
- Parent was able to talk about their concerns
- Parent became less angry/hostile
- Communication was enhanced among professionals
- Professionals were held accountable for their tasks related to the case
- Other: [open response]

9. Which were barriers to progress in the mediation? (Check all that apply.)

- At least one attorney stated at mediation that they would not be discussing stipulation
- At least one professional was unwilling to move off of their position
- At least one professional was not prepared for the mediation
- A question of law needed to be determined
- A question of fact needed to be determined
- There was a high level of anger/hostility on the part of at least one party
- The mediator did not adequately facilitate the discussion
- The mediator lacked the necessary information to facilitate the discussion
- Mediation terminated before all issues could be fully discussed
- Other: [open response]

Please provide more information about your experience:

10. What, if anything, made the mediation effective?

11. What, if anything, could have improved the mediation?

MEDIATOR SURVEY

NOTE: This was completed online.

Introductory Text

This survey is part of an independent evaluation of the mandatory portion of the Child Protection Mediation Program. Its purpose is to better understand what is occurring in mediation and what the outcomes of mediation are in addition to whether a stipulation was signed. Your responses will be seen only by the evaluator. The program and the court will only receive statistical analysis of mediator responses and anonymous quotes.

Date of mediation:

1. Approximate amount of time in mediation: _____ hrs _____ min (to the nearest 15 minutes)

2. Persons present at the session:

- | | |
|---|---|
| <input type="radio"/> Mother | <input type="radio"/> Mother attorney |
| <input type="radio"/> Father (# _____) | <input type="radio"/> Father attorney (# _____) |
| <input type="radio"/> Step-Parent/Paramour | <input type="radio"/> Step-Parent/Paramour attorney |
| <input type="radio"/> Legal guardian | <input type="radio"/> Legal guardian attorney |
| <input type="radio"/> Social worker - CFSA | <input type="radio"/> AAG |
| <input type="radio"/> Social worker - Private | <input type="radio"/> GAL |
| <input type="radio"/> Other: _____ | |

3. Did you hold separate meetings with a subset of the parties?

- Yes
- No

3a. (IF YES) Reason:

- Discuss stipulation
- Address parent's emotions
- Discuss particular options for issues other than stipulation
- Other

4. What happened with stipulation in the mediation?

- Agreement reached in mediation
- Agreement reached before mediation
- Progress made on the contents of the stipulation
- Discussed but no progress made
- Not discussed

5. Was a plan set up for the case prior to mediation?

- No
- Partially
- Yes
- I don't know

5a. [IF No or Partially] Was a plan set up for the case during mediation?

- No
- Partially
- Yes

6. What were the other outcomes of mediation? (Check all that apply)

- Visitation schedule was created
- Visitation schedule was changed
- Services for child were added
- Services for child were changed
- Services for parent[s] were added
- Services for primary parent[s] were changed
- Placement was changed
- Expectations were clarified for parent(s)
- Communication between professionals was enhanced
- Primary parent emotions were ameliorated
- Primary parent emotions became more entrenched
- Other: [open response]

7. Which were barriers to progress in the mediation? (Check all that apply.)

- At least one parent's attorney did not discuss stipulation with their client before mediation
- At least one parent's attorney stated at mediation that they would not be discussing stipulation
- At least one professional was unwilling to move off of their position
- There was a high level of anger/hostility between the parties
- A question of law needed to be determined in order to fully discuss an issue on the agenda
- A question of fact needed to be determined in order to fully discuss an issue on the agenda
- Mediation terminated before everything on the agenda could be fully discussed
 - o Reason:
 - At least one participant needed to catch the shuttle
 - Scheduling conflict – a party had another hearing or appointment to get to
 - The time allotted ended
 - Other: [open response]
- Other: [open response]

8. What, if anything, made the mediation effective?

9. What, if anything, could have improved the mediation?

Parent Interview Protocol

Date: _____

Case # _____

Relationship to child(ren): ☐ M ☐ FChild(ren) removed? ☐ Yes ☐ No Relative Placement? ☐ Yes ☐ No ☐ N/AParent previously involved with child welfare system? ☐ Yes ☐ NoType of case (Check all that apply): ☐ Neglect ☐ Physical abuse ☐ Sexual abuse**Pre-mediation understanding of process:***I'd like to start by asking you some questions about your understanding of mediation before you came here.*

1. What did you know about mediation before you came?

2. Who told you about what happens in mediation? What were you told?

3. How did you feel about being referred to mediation?

Feelings in mediation:

Next, let's talk about the mediation itself.

4. How does mediation compare to your other experiences, such as the family team meeting (explain – when you first met with everyone) and with the judge?

5. How do you feel about the decisions that were made in mediation?

6. How much were your ideas listened to during the mediation?

7. How did you feel about speaking up for yourself in mediation?

8. What do you think about the people at the mediation?

[Prod: Social worker, your lawyer, the other lawyers, the mediator]

How does your opinion of them now compare to your opinion of them before mediation?

(IF CHANGED) What changed?

(ALL) Can you talk a little about the reasons you feel that way?

(ALL) Do you believe they want to do what's best for your children?

9. Overall, how do you feel about the mediation?

10. Would you have changed anything about the mediation?

What would you have changed?

Impact of mediation:

Now I'd like to talk about whether mediation changed anything for you. We'll talk about your children, your feelings, and how you view your situation.

11. Did you understand before mediation when you were scheduled to see your child(ren)?

YES: How did you get this information? Is your understanding any different now that you've talked in the mediation about visiting your children?

Did your schedule get changed in mediation?

How do you feel about the new schedule?

NO: Did you talk about visiting your children before? What happened?

Do you know when you're seeing your children now?

What helped you to know?

How do you feel about the schedule for seeing your children?

12. In the mediation, you discussed what services you'd be getting – what you needed to do moving forward. Did you have any conversations about this before today?

YES: Who did you talk with?

Did you understand what you needed to do after that conversation?

Did what you needed to do change in mediation? What do you think about the changes?

NO: Do you understand now what you need to do next?

How do you feel about what you need to do?

13. If you do what they ask you to do, will that change anything for the future? What?

Did mediation change how you're looking at the future? In what way?

14. Overall, how do you feel about the future for you and your children?

Has that changed at all since you first met with everyone? In what way?

15. Is there anything else you'd like me to know?

Interview Questions for Judges

Judge Name: _____

Length of time as judge: _____ **Length of time hearing A & N cases:** _____

Any previous experience with A & N cases?

Purpose of the program:

1. What do you see is the purpose of mediation in this program?

2 What do you think the mediation should accomplish?

How well is it doing this?

Referrals:

[Purpose: to determine whether there are cases that either routinely or specifically are not referred to mediation. This helps to answer the question about which cases are filed but not referred by providing information that would not be available from CourtView.]

3. Are there any cases that should not be referred to mediation? ☐ Yes ☐ No

What are they?

When such cases come before you, do you refer them to mediation?

4. Do attorneys ever object to referral to mediation? ☐ Yes ☐ No

What do you do if they do object?

5. Based on your experience, what characteristics of the case or parties increase the likelihood of success in mediation?

6. What characteristics of the case or the parties decrease the likelihood of success in mediation?

7. In your experience, what is the ideal timing for mandatory mediation to take place?

What happens if it takes place earlier than that?

What happens if it takes place after that?

Post-mediation hearings

[Purpose: to see if mediation has an impact on hearings.]

5. How do hearings after mediation compare to hearings when the parties didn't attend mediation? [Prod with complexity, time]

6. How does the attitude of parents who have attended mediation compare to those who have not?

Program Overall

7. What do you see as the program's strengths?

8. What do you see as the program's challenges? How would you address those challenges?

9. What improvements would you make to the program?

10. Is there anything else you would like to add that we haven't talked about?

CHILD PROTECTION MEDIATION OBSERVATION PROTOCOL

Observer: _____

Case#: _____

Date of Session: _____

Start time: _____ End Time: _____ Total Time Spent in Session (minutes): _____

Child removed? ☐ Yes ☐ No**Placement:**

- ☐ Relatives
- ☐ Foster care
- ☐ Emergency Shelter
- ☐ Other: _____
- ☐ Not discussed

Parent previously involved with child welfare system? ☐ Yes ☐ No ☐ Couldn't tell**Type of case (Check all that apply):**

- ☐ Neglect
- ☐ Physical abuse
- ☐ Sexual abuse

Mediator:

- ☐ Staff
- ☐ Volunteer

Persons present at session:

- | | |
|--|---|
| <input type="radio"/> Mother | <input type="radio"/> Mother attorney |
| <input type="radio"/> Father (# _____) | <input type="radio"/> Father attorney (# _____) |
| <input type="radio"/> Legal guardian | <input type="radio"/> Legal guardian attorney |
| <input type="radio"/> Step-Parent/Paramour | <input type="radio"/> Step-Parent/Paramour attorney |
| <input type="radio"/> Social worker - CFSA | <input type="radio"/> AAG |
| <input type="radio"/> Social worker - Private | <input type="radio"/> GAL |
| <input type="radio"/> Other: _CFSA supervisor_ | |

MEDIATOR:

Check if present:

- Names/intro
- Opening statement F/P/N
 - ☐ Confidentiality
 - ☐ Exceptions to confidentiality
 - ☐ Voluntariness

- Each person is asked to add to agenda, including parents
- Each agenda item is brought up by mediator (unless brought up by party and discussed)
- Resolutions are written on flipchart
- Resolutions are summarized by mediator

OUTCOME OF SESSIONS

4. What happened with stipulation in the mediation?

- Agreement reached in mediation
- Agreement reached before mediation
- Progress made on the contents of the stipulation
- Discussed but no progress made
- Not discussed

5. Was a plan set up for the case prior to mediation?

- No
- Partially
- Yes
- I don't know

5a. Was a plan set up for the case during mediation?

- No
- Partially
- Yes

6. What were the other outcomes of mediation? (Check all that apply)

- Visitation schedule was created
- Visitation schedule was changed
- Services for child were added
- Services for child were changed
- Services for parent[s] were added
- Services for primary parent[s] were changed
- Placement was changed
- Expectations were clarified for parent(s)
- Communication between professionals was enhanced
- Primary parent emotions were ameliorated
- Primary parent emotions became more entrenched
- Other: [open response]

Barriers Present at the mediation:

- ☐ One or more parties inflexible
- ☐ Factual issues needed to be resolved: _____
- ☐ Legal issues needed to be resolved: _____
- ☐ Missing information: _____
- ☐ Serious disagreement over case

- ☐ Substance being abused
- ☐ Mental health issues
- ☐ Issues of domestic violence – note how was dealt with below
- ☐ Other: _____

NOTES:

Overall, the

- ☐ Parties moved closer together
- ☐ Parties moved further apart
- ☐ Parties moved closer on some items, farther away on others

Notes on Process – This should be very qualitative rather than quantitative.

[Note emotions, attitudes of people involved, how progress is being made or barriers to that progress.]

Appendix D

Statistics

APPENDIX D: STATISTICS

DESCRIPTIVE STATISTICS

Key:

TTPH_FAM: (time until permanency) the time interval between initial hearing and first disposition using the child with the longest interval

NotMediated:

0 = the case **was** mediated

1 = the case **was not** mediated

FamSize: the number of children in a family

CRFAM:

0 = no children were removed from a family

1 = at least one child was removed from a family

YOUNGEST: the age of the youngest child in a family

STIP_FAM

0 = no stipulation entered for any child

1 = stipulation entered for every child regardless of timing

CrimCase

0 = no companion criminal case

1 = there is a companion criminal case

TTSTIP_FAM: (time-to-stipulation) the time interval between initial hearing and stipulation entered using the child with the longest interval

TTMED_FAM: (time-to-mediation) the time interval between initial hearing and mediation hearing using the child with the longest interval

HEARCNT_FAM: (hearing count) the number of hearings excluding hearings that were rescheduled, using the child with the most number of hearings

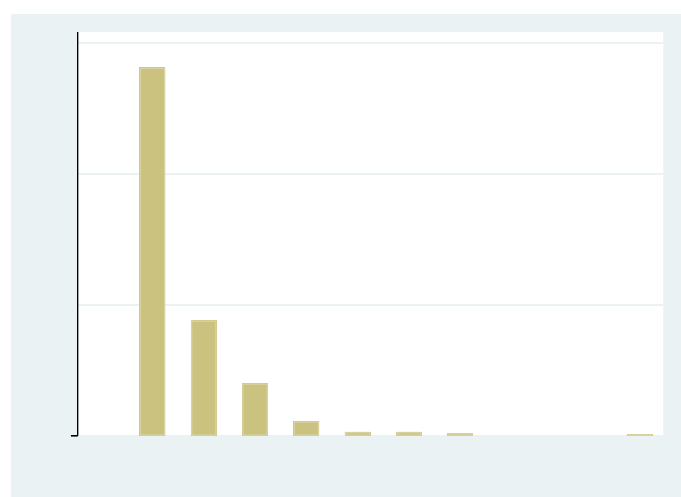
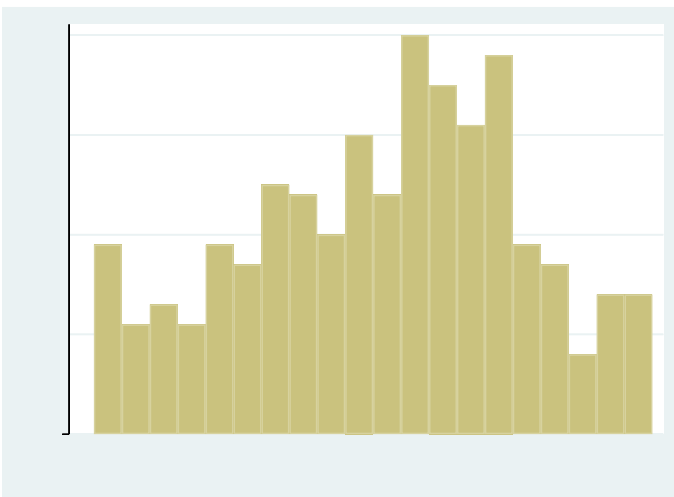
Variable	Obs	Mean	Std. Dev.	Min	Max
TTPH_FAM	429	799.7413	383.044	3	1545
NotMediated	429	.2960373	.4570406	0	1
FamSize	429	1.582751	1.076851	1	11
CRFAM	429	.955711	.2059767	0	1
YOUNGEST	429	6.09697	5.768661	0	17.9
STIP_FAM	429	.7808858	.4141291	0	1
CrimCase	429	.0769231	.2667805	0	1
TTSTIP_FAM	335	49.71642	33.35735	0	237
TTMED_FAM	408	24.60294	8.431787	5	66
HEARCNT_FAM	429	12.70629	4.813094	1	30

<u>NotMediated</u>	Freq.	Percent	Cum.
0	302	70.40	70.40
1	127	29.60	100.00
Total	429	100.00	

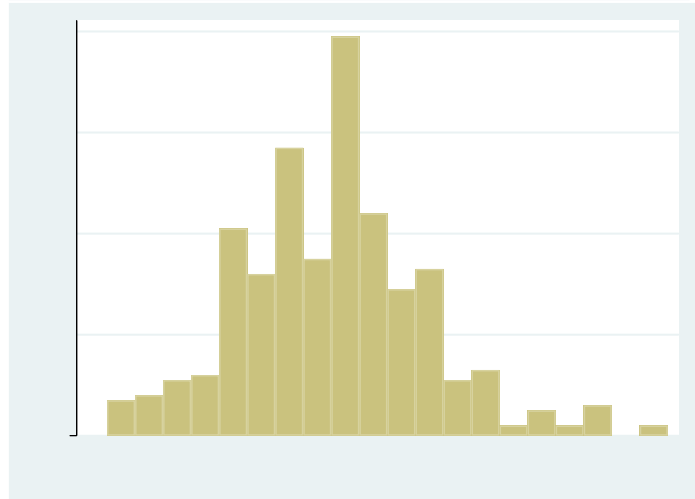
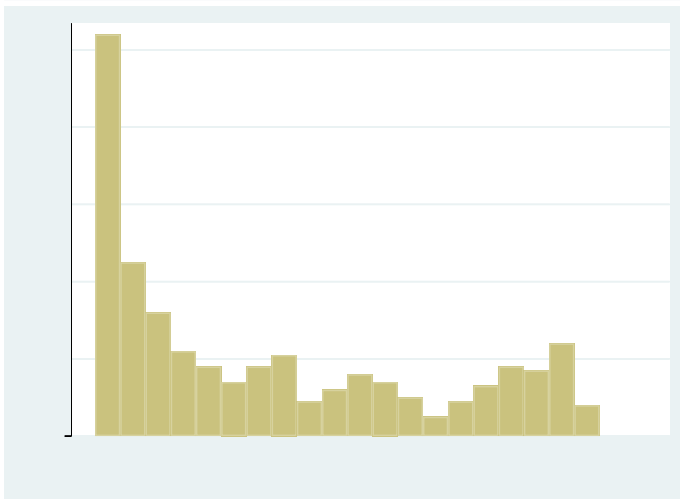
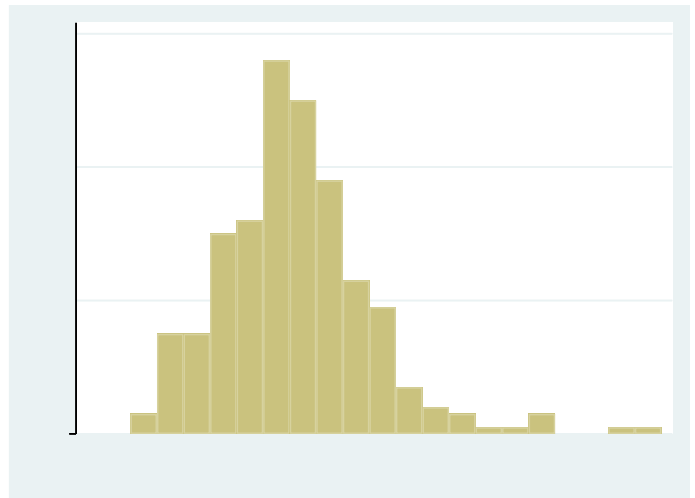
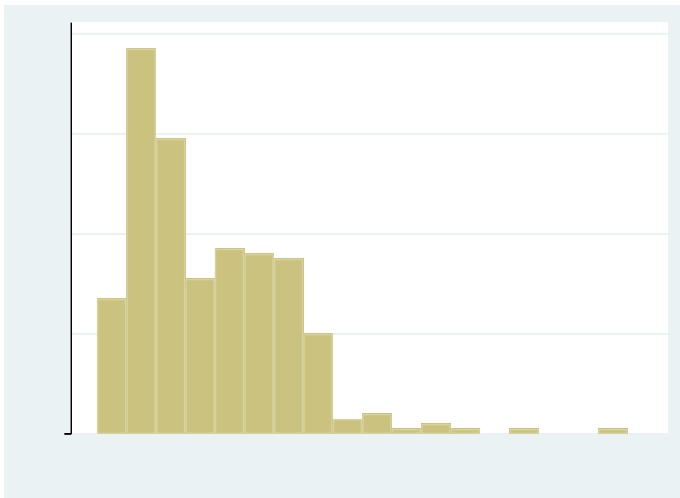
<u>CRFAM</u>	Freq.	Percent	Cum.
0	19	4.43	4.43
1	410	95.57	100.00
Total	429	100.00	

<u>STIP_FAM</u>	Freq.	Percent	Cum.
0	94	21.91	21.91
1	335	78.09	100.00
Total	429	100.00	

<u>Crim Case</u>	Freq.	Percent	Cum.
0	396	92.31	92.31
1	33	7.69	100.00
Total	429	100.00	



FamSize	Freq.	Percent	Cum.
1	281	65.50	65.50
2	88	20.51	86.01
3	40	9.32	95.34
4	11	2.56	97.90
5	3	0.70	98.60
6	3	0.70	99.30
7	2	0.47	99.77
11	1	0.23	100.00
Total	429	100.00	



YOUNGEST	Freq.	Percent	Cum.
0	78	18.18	18.18
1	60	13.99	32.17
2	36	8.39	40.56
3	28	6.53	47.09
4	19	4.43	51.52
5	18	4.20	55.71
6	19	4.43	60.14
7	18	4.20	64.34
8	12	2.80	67.13
9	14	3.26	70.40
10	17	3.96	74.36
11	14	3.26	77.62
12	7	1.63	79.25
13	9	2.10	81.35
14	15	3.50	84.85
15	20	4.66	89.51
16	20	4.66	94.17
17	20	4.66	98.83
18	5	1.17	100.00
Total	429	100.00	

MODELS

Time to Permanent Home

. regress TTPH_FAM NotMediated CRFAM FamSize YOUNG_SQR

Source	SS	df	MS	Number of obs	=	429
Model	4657456.13	4	1164364.03	F(4, 424)	=	8.49
Residual	58139870.1	424	137122.335	Prob > F	=	0.0000
				R-squared	=	0.0742
				Adj R-squared	=	0.0654
Total	62797326.3	428	146722.725	Root MSE	=	370.3
TTPH_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-59.70086	38.96198	-1.53	0.126	-136.2835	16.88183
CRFAM	11.15852	87.66935	0.13	0.899	-161.1621	183.4792
FamSize	45.11022	17.24183	2.62	0.009	11.22011	79.00032
YOUNG_SQR	1.050633	.1950818	5.39	0.000	.6671848	1.434081
_cons	661.8338	95.98917	6.89	0.000	473.1599	850.5077

```
regress TTPH_FAM NotMediated CRFAM FamSize YOUNG_SQR if DISP_FAM != 0
```

Source	SS	df	MS	Number of obs	=	278
				F(4, 273)	=	1.93
Model	835400.131	4	208850.033	Prob > F	=	0.1054
Residual	29515901	273	108116.853	R-squared	=	0.0275
				Adj R-squared	=	0.0133
Total	30351301.1	277	109571.484	Root MSE	=	328.81

TTPH_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-60.45251	42.52549	-1.42	0.156	-144.1721	23.26708
CRFAM	3.599696	97.90662	0.04	0.971	-189.1482	196.3476
FamSize	39.43954	21.21665	1.86	0.064	-2.329496	81.20857
YOUNG_SQR	.4642306	.250575	1.85	0.065	-.0290742	.9575355
_cons	549.1445	105.8139	5.19	0.000	340.8294	757.4595

The first model has a highly significant F-statistic, indicating the presence of at least one significant independent variable. But this significance disappears once we exclude the undisposed cases. The first model, which includes both disposed and undisposed cases, explains a little more than 7% of the total variability of the dependent variable, **TTPH_FAM**, measured from the date of the initial hearing until the date of the first disposition. Whether or not parents chose to mediate—**NotMediated**—was not a statistically significant predictor of how long it would take to permanently place a child in a home, nor was the variable **CRFAM**, whether or not the child had been removed from his or her home.

Two variables – family size (**FamSize**) and the age of the youngest child (**YOUNG_SQR**, or the square of the age of the youngest child) – were found to have had a statistically significant relationship to the time it took to permanently place a child in a home. For a family with one child, time until permanently placing the child would be on average about 45 additional days holding all other variables constant, whereas for a family with two children, it would take on average 90 additional days to place the children permanently, etc. With respect to the age of the child, a one-year-old would result in 1 additional day until being permanently placed for both disposed and undisposed cases, whereas a ten-year-old would take an additional 105 days ($10^2 \times 1.05$). Thus, working in the constant of 662 days (for both disposed and undisposed cases), a family with one child who is one-year-old would take on average 708 days until permanently placed ($45 + 1 + 662 = 708$).

The use of the square of the youngest child's age was to eliminate the possibility of non-linearity in the **YOUNGEST** variable. The coefficient of **YOUNGEST** (not reported) was 15.1 days, but this model had a lower F-statistic (6.74 vs. 8.49) and a weaker R-squared (5.98% vs. 7.42%) when compared to the above model using **YOUNG_SQR**.

The foregoing models were considerably improved, however, with the addition of the variables **FIRSTGOAL** and **GOAL_CHG_FAM**. With the addition of these two variables, the models displayed highly significant F-statistics regardless of whether undisposed cases were included or excluded. The first model which included both disposed and undisposed cases explained 29% of the total variability of the dependent variable, **TTPH_FAM**, as compared to only 7% earlier, and nearly 30% in the second model which excluded the undisposed cases. While family size (**FamSize**) is (just barely) no longer statistically significant, the age of the youngest child (**YOUNG_SQR**) remains significant, and the two new variables are also significant. We judged that a change in goal had occurred if the first goal was different from the last goal.

The coefficient for age of the youngest child (**YOUNG_SQR**) is similar to earlier, adding about 1 day to time to permanency for each squared year of a child's age. A goal change (**GOAL_CHG_FAM**) has a dramatic effect on time to permanency, adding just over 300 days on average when holding all other variables constant. The coefficients for **FIRSTGOAL** must be interpreted with respect to Reunification, the reference category. Ignoring **FIRSTGOAL** = 2, Custody and Alternative Plans (of which there are only 3 cases and thus combined with Custody) because they lack statistical significance, we see that, on average, an initial goal of Guardianship and Adoption (**FIRSTGOAL** = 3 and 4 respectively) add an additional 152 days and 167 days respectively to permanency as compared to Reunification, holding all other variables constant. Rerunning the model excluding undisposed cases had relatively modest effects on the coefficients of the statistically significant variables, although Guardianship lost statistical significance.

KEY: FIRSTGOAL:

- 1 = Reunification (omitted as this is the reference category)
- 2 = Custody or Alternative Plan
- 3 = Guardianship
- 4 = Adoption

GOAL_CHG_FAM:

- 0 = First Goal = Last Goal
- 1 = First Goal ≠ Last Goal

regress TTPH_FAM NotMediated CRFAM FamSize YOUNG_SQR GOAL_CHG_FAM i.FIRSTGOAL						
Source	SS	df	MS	Number of obs	=	398
				F(8, 389)	=	19.72
Model	13365208.6	8	1670651.08	Prob > F	=	0.0000
Residual	32949628.8	389	84703.416	R-squared	=	0.2886
				Adj R-squared	=	0.2739
Total	46314837.4	397	116662.059	Root MSE	=	291.04
TTPH_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-35.85838	33.13655	-1.08	0.280	-101.0075	29.29076
CRFAM	-19.70058	69.52769	-0.28	0.777	-156.3977	116.9965
FamSize	26.58513	13.99809	1.90	0.058	-.9362452	54.1065
YOUNG_SQR	.9951058	.1626764	6.12	0.000	.6752707	1.314941
GOAL_CHG_FAM	303.257	30.0081	10.11	0.000	244.2586	362.2553
FIRSTGOAL						
2	83.20954	63.90153	1.30	0.194	-42.42605	208.8451
3	151.5964	55.54667	2.73	0.007	42.38711	260.8056
4	166.8983	51.7306	3.23	0.001	65.19176	268.6049
_cons	588.7243	76.66117	7.68	0.000	438.0022	739.4463

```
. regress TTPH_FAM NotMediated CRFAM FamSize YOUNG_SQR GOAL_CHG_FAM i.FIRSTGOAL
if DISP_FAM != 0
```

Source	SS	df	MS	Number of obs	=	247
				F(8, 238)	=	12.66
Model	6218423.82	8	777302.977	Prob > F	=	0.0000
Residual	14609723.9	238	61385.3945	R-squared	=	0.2986
				Adj R-squared	=	0.2750
Total	20828147.7	246	84667.2671	Root MSE	=	247.76

TTPH_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-50.12813	35.56237	-1.41	0.160	-120.1853	19.92909
CRFAM	-8.283228	74.77631	-0.11	0.912	-155.5912	139.0247
FamSize	39.40502	16.72505	2.36	0.019	6.456974	72.35307
YOUNG_SQR	.8741781	.2076251	4.21	0.000	.4651605	1.283196
GOAL_CHG_FAM_B	309.2966	33.88856	9.13	0.000	242.5367	376.0564
FIRSTGOAL1						
2	9.925322	86.32575	0.11	0.909	-160.1348	179.9855
3	115.7991	77.48709	1.49	0.136	-36.84906	268.4472
4	185.4622	53.56672	3.46	0.001	79.93679	290.9877
_cons	458.2262	81.15136	5.65	0.000	298.3596	618.0929

The model was re-run to include the variable **CrimCase**, a dichotomous variable—1 if the parents were involved in a companion criminal case, and 0 if this was not the case. This variable proved not to be statistically significant, nor did its inclusion markedly change the coefficients for the remaining variables. Removing undisposed cases (not reported) did not render **CrimCase** significant.

```
regress TTPH_FAM NotMediated CrimCase CRFAM FamSize YOUNG_SQR
```

Source	SS	df	MS	Number of obs	=	429
				F(5, 423)	=	7.01
Model	4802989.42	5	960597.885	Prob > F	=	0.0000
Residual	57994336.9	423	137102.451	R-squared	=	0.0765
				Adj R-squared	=	0.0656
Total	62797326.3	428	146722.725	Root MSE	=	370.27

TTPH_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-56.68424	39.12549	-1.45	0.148	-133.5888	20.22035
CrimCase	79.05386	67.55787	1.17	0.243	-53.73707	211.8448
CRFAM	4.337213	87.82066	0.05	0.961	-168.282	176.9565
FamSize	44.88393	17.24205	2.60	0.010	10.99317	78.7747
YOUNG_SQR	1.074161	.1958283	5.49	0.000	.6892436	1.459079
_cons	659.7959	95.96842	6.88	0.000	471.1615	848.4303

Using propensity score matching to test the effects of mediation on the time until permanent placement revealed that **NotMediated** was statistically significant when controlling for removal, family size and the age of the youngest child, and

that the decision to mediate resulted on average in 89 more days until a child was permanently placed. However, when excluding the undisposed cases, this statistical significance disappeared.

. teffects psmatch (TTPH_FAM)(NotMediated CRFAM FamSize YOUNG_SQR)

Treatment-effects estimation	Number of obs	=	429
Estimator : propensity-score matching	Matches: requested	=	1
Outcome model : matching	min	=	1
Treatment model: logit	max	=	11

TTPH_FAM	Coef.	AI Robust Std. Err.	z	P> z	[95% Conf. Interval]	
ATE						
NotMediated						
(1 vs 0)	-88.86682	45.30712	-1.96	0.050	-177.6671	-.0664966

. teffects psmatch (TTPH_FAM)(NotMediated CRFAM FamSize YOUNG_SQR) if DISP_FAM!=0

Treatment-effects estimation	Number of obs	=	278
Estimator : propensity-score matching	Matches: requested	=	1
Outcome model : matching	min	=	1
Treatment model: logit	max	=	10

TTPH_FAM	Coef.	AI Robust Std. Err.	z	P> z	[95% Conf. Interval]	
ATE						
NotMediated						
(1 vs 0)	-47.4223	50.14809	-0.95	0.344	-145.7108	50.86616

Stipulation

. logistic STIP_FAM NotMediated CRFAM FamSize YOUNG_SQR i.FIRSTGOAL

note: CRFAM = Child Removed

CRFAM != 1 and predicts success perfectly

CRFAM dropped and 19 obs not used

Logistic regression	Number of obs	=	379
	LR chi2(6)	=	44.55
	Prob > chi2	=	0.0000
Log likelihood = -154.51807	Pseudo R2	=	0.1260

STIP_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]	
NotMediated	.4858579	.1461795	-2.40	0.016	.2694072	.8762122
CRFAM	1 (omitted)					
FamSize	.8215651	.1162836	-1.39	0.165	.6225348	1.084227
YOUNG_SQR	.9988952	.0015897	-0.69	0.487	.9957843	1.002016

FIRSTGOAL							
2	.5875206	.3298545	-0.95	0.343	.195492	1.765702	
3	.3132113	.1402708	-2.59	0.010	.1302055	.7534346	
4	.1216258	.047652	-5.38	0.000	.0564328	.2621318	
_cons	14.58406	5.350938	7.30	0.000	7.105093	29.93553	

Note: _cons estimates baseline odds.

In contrast to **TTPH_FAM**, whether or not a family chose to mediate did have a highly statistically significant relationship with whether a family ended up stipulating or not (**STIP_FAM**). In the above model using logistic regression, an odds ratio of 1 is equivalent to a 50/50 chance of the variable having an effect on the dependent variable. Thus, an odds ratio of 0.4858 for **NotMediated** (where 1=no mediation, and 0=mediation) suggests a 1-in-3 chance that a family who opts *not* to mediate will stipulate, implying that a family that *does choose* to mediate has a 67% probability of stipulating ($.327 \div .673 = .4858$). Also in contrast to the **TTPH_FAM** models, **FamSize** and **YOUNG_SQR** are not statistically significant predictors of whether or not parents stipulate.

We also see that **FIRSTGOAL** – when the goal is either guardianship (**FIRSTGOAL=3**) or adoption (**FIRSTGOAL=4**) – is highly significant. But when these are the goals, the family is quite unlikely to stipulate as indicated by the low odds ratios of .31 and .12 respectively. Thus, a family with a goal of guardianship has a 24% probability of stipulating ($.24 \div .76 = .31$), while a family with a goal of adoption has only an 11% probability of stipulating ($.11 \div .89 = .12$).

Again, we see in the following model that whether or not the parents are involved in a companion criminal case has little bearing on whether or not they choose to stipulate, nor on the other variables that do show a significant influence on stipulation:

. logistic STIP_FAM NotMediated CrimCase CRFAM FamSize YOUNG_SQR i.FIRSTGOAL

note: CRFAM != 1 predicts success perfectly

CRFAM dropped and 19 obs not used

Logistic regression	Number of obs	=	379
	LR chi2(7)	=	44.70
	Prob > chi2	=	0.0000
Log likelihood = -154.44265	Pseudo R2	=	0.1264

STIP_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]	
NotMediated	.4853599	.1461533	-2.40	0.016	.2689968	.8757513
CrimCase	1.231976	.6722983	0.38	0.702	.4227615	3.590122
CRFAM	1	(omitted)				
FamSize	.8210486	.1159717	-1.40	0.163	.6224983	1.082928
YOUNG_SQR	.9989711	.0016028	-0.64	0.521	.9958346	1.002117
FIRSTGOAL						
2	.5931313	.3333654	-0.93	0.353	.1971237	1.78469
3	.3125505	.1399723	-2.60	0.009	.1299329	.751833
4	.1211267	.04754	-5.38	0.000	.0561254	.2614091

_cons	14.27852	5.284267	7.18	0.000	6.91299	29.49172
-------	----------	----------	------	-------	---------	----------

While logistic regression is more appropriate when dealing with categorical variables such as **STIP_FAM**, using standard regression conveys the same intuitions – **NotMediated** and **FIRSTGOAL** of guardianship and adoption are again appearing as significant, and the negative coefficients will drive the value of **STIP_FAM** closer to zero than to one, suggesting that the choice to not mediate as well as goals of guardianship or adoption are more likely to lead to the choice to *not* stipulate.

. regress STIP_FAM NotMediated CRFAM FamSize YOUNG_SQR i.FIRSTGOAL

Source	SS	df	MS	Number of obs	=	398
				F(7, 390)	=	9.20
Model	7.89723157	7	1.12817594	Prob > F	=	0.0000
Residual	47.823874	390	.122625318	R-squared	=	0.1417
				Adj R-squared	=	0.1263
Total	55.7211055	397	.14035543	Root MSE	=	.35018
STIP_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	-.0981551	.0394926	-2.49	0.013	-.1758001	-.0205101
CRFAM	-.1544513	.0832807	-1.85	0.064	-.3181866	.009284
FamSize	-.0222081	.0168048	-1.32	0.187	-.0552475	.0108313
YOUNG_SQR	-.0001447	.0001958	-0.74	0.460	-.0005297	.0002403
FIRSTGOAL						
2	-.0736636	.076793	-0.96	0.338	-.2246437	.0773164
3	-.1796558	.0667818	-2.69	0.007	-.3109531	-.0483585
4	-.3870243	.0609332	-6.35	0.000	-.506823	-.2672256
_cons	1.110043	.0917594	12.10	0.000	.9296381	1.290448

And using propensity score matching confirms that **NotMediated** has a statistically significant relationship to **STIP_FAM** indicating that a family that chooses not to mediate (NotMediated=1) is also less likely to agree to a stipulation.

. teffects psmatch (STIP_FAM)(NotMediated CRFAM FamSize YOUNG_SQR i.FIRSTGOAL)

Treatment-effects estimation		Number of obs		=	398	
Estimator	: propensity-score matching	Matches: requested		=	1	
Outcome model	: matching			min	=	1
Treatment model	: logit			max	=	8

STIP_FAM	Coef.	AI Robust Std. Err.	z	P> z	[95% Conf. Interval]	
-----+-----						
ATE						
NotMediated						
(1 vs 0)	-.0927136	.0456851	-2.03	0.042	-.1822546	-.0031725

Additional tests were run to see if the time until mediation (**TTMED**) had any influence on whether families stipulated or not. No effect was discerned regardless as to whether a cutoff of 10 days or 15 days was used (nor was there any effect using other cutoffs—not reported—of 20, 25 and 30 days).

KEY: TTMED_GT10:

0 = ≤ 10 days

1 = > 10 days

...

logistic STIP_FAM FamSize YOUNG_SQR i.FIRSTGOAL TTMED_GT10

Logistic regression	Number of obs	=	284
	LR chi2(6)	=	14.87
	Prob > chi2	=	0.0213
Log likelihood = -100.53697	Pseudo R2	=	0.0689

STIP_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]	
FamSize	.7158077	.1013046	-2.36	0.018	.5424132	.9446318
YOUNG_SQR	.9979177	.0019326	-1.08	0.282	.9941371	1.001713
FIRSTGOAL						
2	.6623377	.5391149	-0.51	0.613	.1343499	3.265289
3	.3382416	.1978461	-1.85	0.064	.1074824	1.064428
4	.2009326	.1128993	-2.86	0.004	.0668005	.6043947
TTMED_GT10	2.046874	1.836891	0.80	0.425	.3525428	11.88421
_cons	9.666967	8.923889	2.46	0.014	1.583137	59.02852

Note: _cons estimates baseline odds.

logistic STIP_FAM FamSize YOUNG_SQR i.FIRSTGOAL TTMED_GT15

Logistic regression	Number of obs	=	284
	LR chi2(6)	=	14.36
	Prob > chi2	=	0.0258
Log likelihood = -100.79004	Pseudo R2	=	0.0665

STIP_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]	
FamSize	.7202448	.1012715	-2.33	0.020	.546758	.948779
YOUNG_SQR	.998076	.0019203	-1.00	0.317	.9943194	1.001847
FIRSTGOAL						
2	.658632	.5379992	-0.51	0.609	.1328448	3.265436
3	.3253351	.1894378	-1.93	0.054	.1039175	1.018528
4	.190044	.105602	-2.99	0.003	.0639537	.5647321
TTMED_GT15	1.15824	.6204137	0.27	0.784	.4053688	3.309379
_cons	16.73819	10.01435	4.71	0.000	5.181318	54.07254

Note: _cons estimates baseline odds.

Similarly, no effect was found when simply eliminating any categories but using **TTMED** as a continuous variable. Note that the variable **NotMediated** has been dropped because these models focus on time-to-mediation and thus only on those cases that opted to mediate.

```
. logistic STIP_FAM FamSize YOUNG_SQR i.FIRSTGOAL TTMED_FAM
```

Logistic regression	Number of obs	=	284
	LR chi2(6)	=	15.49
	Prob > chi2	=	0.0168
Log likelihood = -100.22835	Pseudo R2	=	0.0717

STIP_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]	
FamSize	.690737	.0990251	-2.58	0.010	.5215347	.9148339
YOUNG_SQR	.997698	.0019652	-1.17	0.242	.9938537	1.001557
FIRSTGOAL						
2	.6106492	.5022613	-0.60	0.549	.1218078	3.061317
3	.3261613	.1909754	-1.91	0.056	.1035221	1.027618
4	.1897469	.1056743	-2.98	0.003	.0636974	.5652335
TTMED_FAM	1.023868	.022505	1.07	0.283	.9806959	1.068941
_cons	12.06611	6.935405	4.33	0.000	3.911203	37.2241

Note: _cons estimates baseline odds.

Crosstabs based on the following categories failed to indicate an effect when focusing strictly on cases that mediated whether we examined all stipulations, just those that stipulated at mediation, or strictly at late stipulations: ≤15 days, >15 days ≤30 days, >30 days.

```
. tab STIP_FAM TTMED_CATS if NotMediated==0, chi2
```

STIP_FAM	TTMED_CATS			Total
	0	1	2	
0	5	41	6	52
1	32	173	45	250
Total	37	214	51	302

Pearson chi2(2) = 1.9858 Pr = 0.370

```
. tab STIP_AT_MED TTMED_CATS if NotMediated==0, chi2
```

STIP_AT_MED	TTMED_CATS			Total
	0	1	2	
0	17	121	27	165
1	20	93	24	137
Total	37	214	51	302

Pearson chi2(2) = 1.5001 Pr = 0.472

KEY: STIP_AT_MED:

0 = no stipulation or late stipulation

1 = stipulations resulting in Full Agreement

. tab STIP_LATE TTMed_CATS if NotMediated==0, chi2

STIP_LATE	TTMed_CATS			Total
	0	1	2	
0	20	93	24	137
1	12	80	21	113
Total	32	173	45	250

Pearson chi2(2) = 0.8810 Pr = 0.644

KEY: STIP_LATE:

0 = stipulations resulting in Full Agreement

1 = stipulations resulting in Partial or No Agreement

We repeated these foregoing crosstabs tests substituting various binary time cutoffs – e.g., <10 days or >10 days, <15 days or >15 days, etc – for the time buckets to ascertain any effect of time to mediation on stipulation generally, on whether stipulation occurred at mediation, and on late stipulations. We found no statistically significant effects.

Knowing that the choice to mediate influences the choice to stipulate, we next examined the influence of mediation on the time it took to stipulate. Of the families who chose not to mediate, twice as many nevertheless did stipulate (85 vs. 42) as seen in the following crosstabs.

. tab STIP_FAM NotMediated, chi2

STIP_FAM	Not Mediated		Total
	0	1	
0	52	42	94
1	250	85	335
Total	302	127	429

Pearson chi2(1) = 13.1305 Pr = 0.000

Thus, for those 335 families who chose to stipulate, the choice to *not* mediate added on average 10 days to the time it took to stipulate. This result is confirmed by using propensity score matching. The removal of a child (or children) was also significant, adding an additional 16 days on average to the time it took to stipulate if a child was removed. Note the absence of variables we're accustomed to seeing in these models—FamSize and YOUNG_SQR, but also GOAL_CHG and FIRSTGOAL. These variables were all demonstrably insignificant, and, when added, had no effect on the significance of NotMediated or CRFAM, and also reduced the explanatory power of the model as represented by inferior R^2 s (these expanded tests have not been reported).

. regress TTSTIP_FAM NotMediated CRFAM

Source	SS	df	MS	Number of obs	=	335
				F(2, 332)	=	5.39
Model	11696.388	2	5848.194	Prob > F	=	0.0050
Residual	359949.672	332	1084.18576	R-squared	=	0.0315
				Adj R-squared	=	0.0256
Total	371646.06	334	1112.71275	Root MSE	=	32.927

TTSTIP_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	10.37246	4.135457	2.51	0.013	2.237458	18.50746
CRFAM	16.01892	7.780055	2.06	0.040	.7144975	31.32333
_cons	31.97422	7.603972	4.20	0.000	17.01618	46.93226

. teffects psmatch (TTSTIP_FAM)(NotMediated CRFAM)

Treatment-effects estimation	Number of obs	=	335
Estimator : propensity-score matching	Matches: requested	=	1
Outcome model : matching	min	=	4
Treatment model: logit	max	=	235

TTSTIP_FAM	Coef.	AI Robust Std. Err.	z	P> z	[95% Conf. Interval]	
ATE						
NotMediated						
(1 vs 0)	10.41759	4.845928	2.15	0.032	.9197414	19.91543

However, excluding undisposed cases, NotMediated remained significant but CRFAM did not remain significant:

. regress TTSTIP_FAM NotMediated CRFAM if DISP_FAM!=0

Source	SS	df	MS	Number of obs	=	211
				F(2, 208)	=	4.08
Model	9678.56143	2	4839.28071	Prob > F	=	0.0183
Residual	246614.434	208	1185.64632	R-squared	=	0.0378
				Adj R-squared	=	0.0285
Total	256292.995	210	1220.44283	Root MSE	=	34.433

TTSTIP_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
NotMediated	11.37029	5.347284	2.13	0.035	.8284671	21.91211
CRFAM	18.28475	10.25213	1.78	0.076	-1.926645	38.49615
_cons	28.68829	9.979886	2.87	0.004	9.013592	48.36298

Compliance

Compliance data was blind-coded as to whether the parent complied (**Yes**) or did not comply (**No**) with services. Those cases for which compliance was unknown were coded as **UNK**, while those with a first goal of adoption or guardianship

A two-tailed Z-Score was calculated only for those with known compliance. Significance was reached at the .10 level.

	Yes	No	Total
--	-----	----	-------

The Z Score is 1.8043. The p value is 0.05876. The

As noted, there were a large number of cases for which compliance was unknown. This was because the permanency

	Yes	No	Grand Total
--	-----	----	-------------

The Z Score is 2.0642. The p value is 0.0394. The re

Complexity and Severity

Two variables that were examined might be viewed as proxies for the complexity of a case – whether or not the goals of the case change during the case (*GOAL_CHG*, *FAM*) and the number of hearings that occur in any given case.

Similarly, larger families and older children will increase the number of hearings for any given case. Each additional child

Logistic regression	Number of obs	=	398
---------------------	---------------	---	-----

	LR chi2(3)	=	8.61
	Prob > chi2	=	0.0349
Log likelihood = -240.15885	Pseudo R2	=	0.0176

GOAL_CHG_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]
NotMediated	.8315811	.1992528	-0.77	0.441	.5199368 1.330021
CRFAM	2.472769	1.201836	1.86	0.063	.9538396 6.410499
FamSize	1.301856	.1610324	2.13	0.033	1.021584 1.659021
_cons	.6834046	.3572617	-0.73	0.467	.2452999 1.903962

Note: _cons estimates baseline odds.

. logistic GOAL_CHG_FAM NotMediated CRFAM i.FamSizeBucket

Logistic regression	Number of obs	=	398
	LR chi2(4)	=	10.12
	Prob > chi2	=	0.0385
Log likelihood = -239.40483	Pseudo R2	=	0.0207

GOAL_CHG_FAM	Odds Ratio	Std. Err.	z	P> z	[95% Conf. Interval]
NotMediated	.8083048	.194295	-0.89	0.376	.5046252 1.294736
CRFAM	2.480563	1.200695	1.88	0.061	.9605799 6.405704
FamSizeBucket					
1	1.023674	.2802067	0.09	0.932	.5986396 1.750484
2	2.487301	.9392698	2.41	0.016	1.186568 5.213919
_cons	.9175819	.4414336	-0.18	0.858	.3573927 2.35583

Note: _cons estimates baseline odds.

. regress HEARCNT_FAM NotMediated FamSize YOUNGEST

Source	SS	df	MS	Number of obs	=	429
				F(3, 425)	=	7.52
Model	501.107246	3	167.035749	Prob > F	=	0.0001
Residual	9443.47084	425	22.2199314	R-squared	=	0.0504
				Adj R-squared	=	0.0437
Total	9944.57809	428	23.2349955	Root MSE	=	4.7138

HEARCNT_FAM	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]
NotMediated	-.5246289	.4955531	-1.06	0.290	-1.498669 .4494111
FamSize	.8793503	.2159773	4.07	0.000	.4548337 1.303867
YOUNGEST	.116884	.0403335	2.90	0.004	.0376062 .1961619
_cons	10.76317	.5384214	19.99	0.000	9.704872 11.82147

The following table also suggests that the severity of the case is associated with lengthier resolutions where cases resulting in adoption display an average time until the child is placed of 788 days, while cases resolving in reunification

have a considerably shorter time to placement of 542 days. Looking at only cases where stipulation was reached at mediation (**STIP_AT_MED**), we see an even greater divergence between cases resolving in adoption versus those in reunification, 863 days versus 493 days respectively. Also note the asynchronous relationship between stipulation and severity of disposition: for cases resulting in adoption, the average time until the child is placed permanently is longer when there is a stipulation reached at mediation (863 days) as compared to when there is no stipulation or a late stipulation (830 days); by contrast, for reunification cases, the time until the child is placed permanently is substantially shorter when there is a stipulation at mediation (493 days) as compared to when there is no stipulation or a late stipulation (601 days).

DISP_FAM		mean(TTPH_FAM)	
1		787.5618	← adoption
2		831.4231	← guardianship
3		595.2857	← custody
4		541.8396	← reunification

DISP_FAM and STIP_AT_MED		mean(TTSTIP~M)	mean(TTPH_FAM)	
1	0	75.39	829.75	← adoption
	1	26.24	863.00	
2	0	78.67	876.57	← guardianship
	1	36.45	845.36	
3	0	21.50	560.25	← custody
	1	28.00	450.33	
4	0	63.66	600.88	← reunification
	1	26.00	493.21	