



SAVING HOMES, BUILDING UNDERSTANDING:

| An Evaluation of the Eight Foreclosure
Mediation Programs Funded by the
| Illinois Attorney General

16th Judicial Circuit

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SAVING HOMES, BUILDING UNDERSTANDING:

An Evaluation of the Eight Foreclosure Mediation Programs Funded by the Illinois Attorney General

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This evaluation was conducted by Resolution Systems Institute (RSI). Funding for the evaluation and the mediation programs it studied was provided by the Office of Illinois Attorney General Lisa M. Madigan with funds received through the National Mortgage Settlement.

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INTRODUCTION

In 2013, the Office of Illinois Attorney General Lisa M. Madigan used funds received from a settlement with lenders that had allegedly engaged in fraudulent loan servicing and foreclosure practices to provide grants for the development, administration and evaluation of eight foreclosure mediation programs. Because Illinois is a judicial foreclosure state, the funded programs were to be established in the courts and administered by three non-profit grant recipients: Dispute Resolution Institute, Inc. (DRI) in Carbondale, Resolution Systems Institute (RSI) in Chicago and the University of Illinois College of Law Community Preservation Clinic (U of I) in Champaign. The 16th Circuit program is one of the eight programs that was funded.

As part of the grant, Resolution Systems Institute conducted two comprehensive evaluations of all the programs funded by the Attorney General, both of which can be found on the Resolution Systems Institute website. In 2015, RSI conducted a [formative evaluation](#) of the initial six foreclosure mediation programs launched in 2013 and 2014, including the 16th Circuit program. All eight programs were included in the [final evaluation](#), conducted in 2018, which assessed program outcomes and compared each of the eight programs to the others. This is an excerpt of the full 2018 evaluation.

The evaluation of the 16th Circuit program used data from its launch on January 2, 2014, through December 2017. The evaluation looked at the percentage of homeowners who had a foreclosure filed against them who contacted the program, the percentage of homeowners who entered the program, the percentage who completed the program and, finally, the percentage who were able to either save their homes or gracefully exit them. It also examined the factors that contributed to program performance.

The evaluation found that the 16th Circuit program served more homeowners than any other program, recruiting a relatively high percentage of homeowners to contact the program. Those homeowners who moved on to mediate their case felt they had voice and that they were treated fairly and with respect. Further, the program made changes that increased the percentage of participating homeowners who were able to have their loan modification package reviewed and discuss their options for their home with their lender.

The program was able to achieve the Attorney General's goal for funded programs to become sustainable. The court and RSI devised a funding strategy to continue the program after its funding through the grant ended on August 31, 2018.

NOTE: Statistical tables can be found in the [full evaluation](#) of all the programs.

EVALUATION SUMMARY

16TH CIRCUIT: 2014 - 2017



EVALUATION OF THE EIGHT
FORECLOSURE MEDIATION
PROGRAMS FUNDED BY THE
ILLINOIS ATTORNEY GENERAL

THE PROGRAM PROCESS:

The homeowners call the program coordinator for intake and file an appearance in order to participate. They can work with a housing counselor to help them complete their loan modification packet and navigate document exchange. Once this is complete, they attend mediation to discuss their options with a representative from their lender and the lender attorney.

PROGRAM IMPACT



PROGRAMS HAD A POSITIVE IMPACT ON HOMEOWNERS,
LENDERS AND THE COURT BY PROVIDING INFORMATION
AND HELPING HOMEOWNERS AVOID FORECLOSURE

1,323

Homeowners helped,
27% of all foreclosures
filed

291

Foreclosures avoided,
6% of all foreclosures
filed

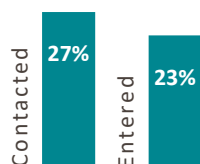
253

Homes saved,
5% of all foreclosures
filed

PARTICIPATION



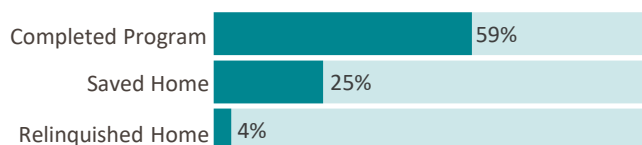
About 1/4 of homeowners
facing foreclosure **contacted
the program** and **participated**



OUTCOMES



6 in 10 homeowners **completed the program**
1/4 of participating homeowners **saved their home**



SUSTAINABILITY



The 16th Circuit Court has
successfully developed a plan
to **keep the program
running** after the end of the
grant funding. This fulfilled a
major goal of the Office of
the Attorney General

PARTICIPANT EXPERIENCE



HOMEOWNERS IN MEDIATION FELT THEY HAD VOICE, THEY WERE
TREATED FAIRLY AND WITH RESPECT, AND THE PROCESS WAS FAIR



9/10

Participants were
**satisfied with their
experience**

**“Everyone was able to ask
questions and provide
information to resolve
issues.”**

- Homeowner after
mediation

16TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Kane County

OVERVIEW

This is the second evaluation of the 16th Judicial Circuit Foreclosure Mediation Program. The first evaluation, published in 2015, examined the program's first year and provided recommendations for improvement. This evaluation looks at the program's outcomes and impacts from its launch through December 2017.

Launch Date	January 2, 2014
Program Size	Approximately 280 homeowners participated each year
Type	Hybrid ¹
Homeowner Entry Process	Complete initial conference with program coordinator and file court appearance
Intake	By program coordinator before homeowners submit financial documents and checklist
Pre-Mediation	1-2 housing counseling sessions (optional) to complete loan modification packet, possible legal assistance from Northern Illinois University College of Law Clinic
Mediation	Unlimited sessions allowed by rule; generally 1 -2 in practice
Remain in Program during TPP?	Depends; if TPP reached prior to mediation, case stays in program; if TPP reached during mediation, case stays in program if homeowners request it
Timing of Foreclosure Stay	Date of service of process until 28 days after case leaves program, or for 45 days from date of service of process if homeowners do not contact the PC
Homeowner Cost	\$228 court appearance fee; may be waived on motion by the homeowners
Lender Additional Filing Fee	\$75
Mediator Payment	\$100 for first mediation session, \$50 for second; capped at \$150
Program Staff	1 part-time program coordinator
Program Rule	Article 5.00: Mandatory Residential Foreclosure Mediation Program

¹ A hybrid program tells homeowners they *must* contact the program and requires more than one step to participate.

² Trial payment plan, otherwise known as a temporary loan modification. The homeowners must make timely payments during the TPP in order to obtain a permanent loan modification.

Distinguishing Features of the Program

The following features differentiate this program from the others in this evaluation:

- The program is a hybrid of a one-step entry program and a multi-step entry program:³ Homeowners are told they must contact the program coordinator, but they also must complete more than one action in order to participate
- Homeowners must file an appearance in order to participate
- Housing counseling is optional; homeowners who decide not to work with a housing counselor do not receive assistance with completion and submission of their loan modification packets unless they seek legal counsel or work with the NIU clinic
- Housing counseling was not funded by an Attorney General grant
- Law students provide legal information through the Foreclosure Help Desk and provide limited-scope representation to a small number of homeowners
- Payment of mediators is by session: \$100 for the first and \$50 for the second (mediators are not paid for any further sessions); mediators were required to conduct three mediations pro bono at the beginning of the program

Important Findings

The program helped 1,323 homeowners and saved 253 homes

The program provided 1,323 homeowners with, at minimum, information about the foreclosure mediation program, their options for their homes and resources available to them. Of those 1,323 homeowners, 253 (19%) saved their homes.

The 16th Circuit program serves the most homeowners of all the programs

The program served an average of 330 homeowners per year. This is 44% more than the next largest program.

The program helped more than 1 in 4 homeowners

About 27% of all homeowners facing foreclosure were helped in some way. This is 4% more than any multi-step entry program. The difference in program impact was due to both the higher rate of homeowners contacting the program and the fact that everyone who contacted the program received some assistance with understanding the foreclosure process, their options and the services available to them.

The percentage of homeowners who contacted the program and then entered it declined in 2017

In each of its first three years, about 85% of homeowners who contacted the program completed the steps to enter it. In 2017, this declined to 78%. The two causes for this drop were a rise in homeowners

³ A multi-step entry program invites the homeowners to contact the program and then requires the homeowners to complete more than one action to participate. A one-step entry program tells the homeowners that they must appear at the initial conference (although there are no penalties for not appearing) and only requires the homeowners to complete one action (appearing at the conference) to participate.

not filing appearances and an increase in those who simply didn't follow up after contacting the program coordinator.

The completion rate for the program increased significantly after 2014

In 2014, 56% of homeowners exited the program early. This declined to 29% in 2016, before rising again in 2017 to 36%. The program coordinator attributed this to a greater emphasis on providing homeowners with housing counseling, a theory that is supported by data from other programs that demonstrated that homeowners who received housing counseling assistance were more likely to complete those programs.

About half of the homeowners who completed the program avoided foreclosure

Of those who completed the program, 48% reached an agreement to avoid foreclosure. This falls in the middle of all programs.

Homeowner perspectives on mediation became more positive after 2014

More than 90% of the homeowners were satisfied with their experience in mediation and 80% were satisfied with the outcome. This is an increase from 2014, when 86% were satisfied with their experience and 71% were satisfied with the outcome. Further, more homeowners had an experience of procedural justice, with more of them feeling they could talk about all or most of their issues and concerns, they were treated fairly, and that the process was fair.

The program has been sustained beyond the grant funding

The 16th Circuit and the program administrator, Resolution Systems Institute, developed a plan that allows the program to be self-sustaining through the use of filing fees.

PROGRAM DESCRIPTION AND PROCEDURES

What Need Was the Program Created to Meet?

The court had seen its foreclosure call grow from two mornings a week to five full days. At the same time, the foreclosure judges were seeing unrepresented homeowners who did not know how to navigate the court system and were trying to work with their lender⁴ to obtain a loan modification, but were not succeeding.

The program was set up to address these issues. The court wanted to help homeowners so that they could have the opportunity to save their homes or exit them gracefully.⁵ It also wanted to increase the efficiency of moving foreclosure cases through the system. The mediation process was also supposed to, as stated in the court rule, "reduce the burden of expenses" incurred by the court, lenders, homeowners and taxpayers as a result of foreclosures, and to limit the burden of abandoned and vacant homes on the community.

⁴ The term "lender" will be used throughout to denote the lender or servicer with whom the mortgage resides.

⁵ An agreement to transition out of the home while avoiding foreclosure. Also known as relinquishment.

Program Administration

This program is administered by Resolution Systems Institute. The program originally was staffed by a full-time program coordinator employed by RSI, and a full-time paralegal, who was fluent in Spanish and English and a court employee.⁶ In 2017, the program coordinator began administering a second mediation program connected to the court. In 2018, the court no longer funded the paralegal. As of this evaluation, therefore, the program is administered by a part-time program coordinator. The program is located on the fourth floor of the Kane County Courthouse in Geneva.

Program partners included Northern Illinois University College of Law. Until the College's law clinic closed in August 2018, clinic students staffed the foreclosure desk and represented a few selected homeowners as they moved through the program and attended mediation. The housing counseling program partners are The Neighbor Project (formerly Joseph Corp) and Consumer Credit Counseling Services of Northern Illinois, both of which provide free services during the pre-mediation phase.

Prairie State Legal Services has represented a few homeowners in mediation and was instrumental in drafting the court rules. A roster of 25 private mediators conducts the mediations. The mediators received a five-day foreclosure mediation training from RSI.

Eligible Cases

Eligibility is automatic for residential foreclosure cases filed in 2014 or later. The court may also order cases into the program that were filed prior to 2014, or when homeowners initially missed the deadline for participation. Eligibility is limited, however, to homeowners who either live at the property or have right of return, and to properties with one to six units.

Notification and Outreach

Homeowners are first informed about the foreclosure mediation program when they receive their summons. Included is a [First Notice of Mandatory Mediation](#) that tells the homeowners they *must* call the mediation program coordinator within 45 days for an initial conference and to file an appearance in order to participate. It also includes the [Homeowner's Checklist and Questionnaire](#), which asks the homeowners basic background questions and provides a checklist for them to follow while completing the loan modification packet. They have three more opportunities to learn about the program from postcards that the program coordinator sends to them after the plaintiff confirms service, and then 14 days and 30 days after that. The postcard tells them they need to contact the program coordinator by the deadline specified on the postcard and that they need to file an appearance.

County residents may also learn about the program from [brochures](#) left in legislators' offices, the County and Circuit Clerk's offices, the office of the Recorder of Deeds and most of the township offices. The housing counseling and legal aid offices have brochures, as well. The program also has a [website](#), which includes information about the program, the program's timeline and a [video](#) outlining the process and required documents. In addition, the program coordinator and housing counselors attend open houses

⁶ For 1.5 years, the program also had a part-time assistant.

and community events, where they talk with homeowners directly. Homeowners may also learn about the program from the court's foreclosure help desk.

Entry Process

Once they receive their service of process, the homeowners are required to contact the program coordinator for their initial conference and file an appearance in court within 45 days in order to participate in the program. Filing an appearance requires a \$228 fee,⁷ although this can be waived if the homeowners file a request for a waiver and meet the indigence requirements. In 2017, the court started requiring the homeowners to e-file their appearance and waiver request. Once the homeowners contact the program and file an appearance, they are considered to have entered the program.

Program Process

Initial Conference

When the homeowners contact the program coordinator, he either schedules or conducts the initial conference. In practice, he almost always conducts it at that time, and almost always by phone. On occasion, the initial conference happens in person – generally because the homeowners have been referred by the court's foreclosure help desk or the presiding foreclosure judge to talk to the mediation program. In the initial conference, the program coordinator screens the homeowners for eligibility (ensuring that they signed the mortgage and live at the property) and then asks background questions, including whether they want to keep their home, what their primary reason is for default, and demographic information. He then explains the program and tells them what they need to do to participate.

Pre-Mediation Phase

Document Submission

The next step depends on whether the homeowners have already submitted a loan modification packet to their lender. If they have not submitted a packet, the program coordinator refers them to one of two HUD-certified housing counseling agencies (either Consumer Credit Counseling Services of Northern Illinois or The Neighbor Project) to help them do this. Until August 2018, he also referred them to the Northern Illinois University Law Clinic for legal assistance, if he thought they might benefit from the clinic's assistance.

If the homeowners have already submitted a packet (or if they do not want to work with a housing counselor), he instructs them to send him the Homeowner's Checklist and Questionnaire they received with their summons. In either case, they have 30 days to submit the packet and/or complete the checklist and questionnaire, but they can ask the program coordinator for a 30-day extension. The program coordinator says he is fairly generous with extensions; as long as he sees they are acting in good faith to get the necessary documents together or have a solid reason for needing the extension, he will give it.

⁷ The appearance fee was raised from \$167 in 2017.

If the homeowners opt to work with a housing counselor, the program coordinator refers them to one of the agencies, generally dividing the referrals by homeowner zip code. The homeowners then make an appointment with a counselor at the agency office. The counselor goes over their financial information with them, discusses their options and helps them to complete and submit the packet. The counselor continues working with the homeowners to fulfill any further document requests from their lender.

When the program coordinator referred homeowners to the Northern Illinois University Law Clinic, the homeowners contacted the clinic if they wished and arranged a meeting. Law clinic students, supervised by a faculty member, conducted a screening and decided whether they would represent the homeowners. The faculty member would approve the student taking on the case if it would go to mediation, if it did not involve complex legal issues and if the case presented a good learning opportunity for the student. If the student took on the case, he or she helped the homeowners to collect their financial documents and to complete the necessary legal documents, such as their court appearance and their request to sue and defend as indigent⁸ so that the appearance fee was waived. The student also prepared the homeowners for mediation by describing what mediation was and how they could use it to meet their goals. The student then attended the mediation session as the homeowners' advocate. If no agreement was reached in mediation, the student helped the homeowners prepare their answer to the foreclosure summons and submit it to the court.

Lender Review

Once the homeowners submit the loan modification packet to their lender and send the Homeowner Checklist and Questionnaire to the program coordinator, the case moves into the lender review stage. At this point, the lender has 45 days to ask the homeowners for further documents and review the packet. At the end of the 45 days, the lender attorney sends the Plaintiff's Checklist and Questionnaire to the program coordinator. The questionnaire states that the lender is ready for mediation. Most often, this means that the lender has completed its review of the loan modification packet, but in some cases other issues that would benefit from mediation, such as how a pending divorce affects homeowner obligations or how to proceed if the homeowners had a past bankruptcy, have arisen.

Mediation Phase

Once the program coordinator receives the Plaintiff's Checklist and Questionnaire, he schedules a mediation session for approximately two weeks later. The sessions take place in the program office, which is in the Kane County Courthouse. Although the rule presumes only one session, in practice, two 90-minute sessions are the norm. The purpose of the mediation session is to explore the possibility of avoiding foreclosure. The lender has reviewed the packet and often arrives at mediation with an answer as to whether a modified loan will be offered and, if so, what its terms will be. However, in many cases, the parties arrive for mediation needing to continue to exchange documents. In others, the mediation uncovers additional information that affects the lender's decision about whether to offer a loan modification. In both these cases, the mediation will be continued for a second session.

⁸ This document states that the homeowners' income is insufficient and requests that all court fees be waived.

To reduce the need for two full mediation sessions, the program coordinator began implementing pre-mediation sessions in September 2014. In these sessions, which take place at the courthouse, the lender attorney, the homeowners and the mediator talk about what is required to move toward whatever goal the homeowners have. These are most helpful in two situations: when there is a complex ownership question arising from divorce or inheritance, and when there are repeated issues with the document exchange.⁹ In the former, the homeowners have a lot of questions that need to be answered, such as what happens if one homeowner wants to modify the loan and the other is not interested. Repeated problems with document exchange generally happen when mortgage ownership changes and the homeowners are working with a new lender.

Termination

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not complete the required documentation within 30 days of the initial conference (or 60 days, if given an extension)
- The homeowners do not appear for a scheduled mediation session
- The homeowners decide not to pursue any foreclosure avoidance options
- The homeowners and their lender do not agree to any option to avoid foreclosure

If the parties agree to a temporary loan modification at mediation, the case does not continue in the program during the trial period; however, the stay remains on the foreclosure process until the end of the trial payment plan. If they agree to a temporary loan modification prior to a mediation, the case remains in the program and the stay on the foreclosure process continues until the trial payment plan is over. At the end of the trial period, the homeowners have the option of requesting a mediation session to discuss the conversion to a permanent loan modification, but very few do. Whether or not a mediation session is held, the case returns to court to be dismissed if the temporary loan modification successfully converts to a permanent one. Otherwise, the foreclosure process continues and the stay is lifted 28 days after the trial period ends to allow the homeowners the time to file an answer.

If the lender and the homeowners reach any other agreement, the terms are written up and the case returns to court for dismissal. If no agreement is reached, the case returns to court and the stay on the foreclosure process is lifted 28 days later.

JUDGE AND PROGRAM ADMINISTRATION PERSPECTIVES

The Chief Judge and program coordinator were interviewed in 2015 by the evaluator to obtain their perspectives on the program. The program coordinator was re-interviewed in 2018 to find out how the changes made to the program have worked out.

⁹ The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and the lender’s review of that packet.

What is Working Well?

In 2015, the Chief Judge noted that the interactions and relationships between the program and its stakeholders, including the lenders attorneys, were very positive. Further, the program had a solid relationship with housing counseling agencies and legal assistance. The program coordinator also mentioned the cooperation of lender attorneys with the program, saying that they have been open to the program and that, except for initial problems caused by issues with communication between them and the program, there have been few issues with non-compliance.

Both the Chief Judge and the program coordinator said that the mediators were improving as they gained experience. Initially, some mediators almost always wanted a second mediation session, even if resolution was not feasible. For example, if the parties were pursuing a short sale, the agreement to do so would not resolve the case because there was no way to know whether the house would sell and if so, when and for how much. Scheduling another mediation session would not answer those questions.

The Chief Judge also mentioned the quality of the administrative staff. She was very impressed with the level of outreach the program coordinator was conducting and said having a bilingual paralegal available to talk with Spanish-speaking homeowners was very important.

In his 2018 interview, the program coordinator said that a number of factors improved how the program functioned over time. First, adding increasing the number of postcards sent to homeowners when a foreclosure was filed from one to three had improved participation. A larger emphasis on housing counseling has also helped, as it had increased packet completion. The law librarian and help desk have been assets as well, particularly as they are in the courthouse.

Challenges

According to the program coordinator and the Chief Judge in 2015, the biggest challenge was to increase the number of homeowners who participate in the program. Once the homeowners contacted the program coordinator as the first step in participating in the program, they then had to file a court appearance and pay a filing fee. This second step to enter the program was found to be too complex and costly for some homeowners to complete. Eleven percent of those who contacted the program coordinator never filed an appearance, and thus, never participated.

In 2018, the program coordinator said the biggest challenge continues to be getting homeowners who contact the program to file an appearance. The appearance fee has increased and the process has become more complex with e-filing. This has cut into the strides made with helping the homeowners to file the appearance.

PROGRAM CHARACTERISTICS

The 16th Circuit program had 1,126 participating homeowners during the evaluation period, with an average of 282. This makes it 44% larger than any other Attorney General-funded program. Its impact is greater than on just those participating homeowners, with 1,323 homeowners being helped in some

way.¹⁰ These 1,323 represent 27% of homeowners facing foreclosure in Kane County. More than 70% of homeowners who contact the program do so in response to the notification of the mediation program that accompanies their summons, while most of the rest call after receiving a post card from the program. Few participating homeowners were referred to the program by a judge. All cases were filed after the program launch date.

Judicial Circuit Characteristics

Kane County is a suburban county of about 535,000 residents. The population is 58% non-Hispanic White, 31% Latino/Hispanic and 5% Black/African-American. The median household income for the county is \$71,600, with a poverty rate of 11%. This puts it at 20% above the national median household income and slightly above the median for Illinois. In May 2018, the foreclosure rate was 1 in 929 homes.

Size of Program

The program serves 44% more homeowners than the next largest program

During the grant period, the 16th Circuit program helped 1,323 homeowners, with an average of 330 per year. The number of homeowners helped declined each year as filings fell off from 1,598 in 2014 to 1,059 in 2017. In terms of homeowners helped, it is by far the largest program of the eight funded by the Attorney General.

Year	Filed	Contacted	Entered
2014	1,598	422	368
2015	1,224	334	293
2016	1,094	291	248
2017	1,059	276	217
Total	4,975	1,323	1,126

Case Characteristics

Referral Sources

The vast majority of homeowners responded to their summons or a postcard sent them by the program coordinator. However, 53 homeowners were ordered into the program by the judge. Another 31 homeowners were ordered back into the program after they had contacted the program and either not completed the steps to enter or entered the program, but didn't complete it.

Referral Source		
	#	% of Referrals
Notice with summons	957	72.3%
Postcard sent by program	284	21.5%
Judge	53	4.0%
Help desk/Law library	9	0.6%
Social services agency	9	0.6%
Unknown	11	0.8%

¹⁰ Those who contacted the program coordinator, but did not enter the program, were given information about their options for their home and the services available to them outside of the program.

WHAT DOES THIS MEAN?

Only 84 homeowners were offered a second chance to participate in the program, something that the previous evaluation demonstrated was valuable to homeowners, and as a percentage of cases, much lower than the other hybrid and multi-step entry programs

RECOMMENDATION: Judges should be encouraged to refer more cases to the program after the homeowners missed their opportunity to participate at the outset of their case. The high participation rate and resulting high retention rate in the 21st Circuit program indicate that homeowners who could potentially benefit from the 16th Circuit program are not responding to the notification of the program that accompanies their summons. Further, data from the other hybrid and multi-step entry programs demonstrate that homeowners referred by judges are as likely to save their homes as those who respond to their summons.

Services Received

The homeowners are not required to receive housing counseling or legal services assistance in this program. Once their lender reviews the loan modification packet, a mediator facilitates negotiations, which may include document exchange during the first session before moving to negotiation.

Housing Counseling

Housing counseling is voluntary in this program, and the program did not track whether homeowners received housing counseling assistance. This means that there is no reliable data on whether homeowners received the help of a housing counselor. All that is known is whether homeowners were referred to housing counseling. Of those who contacted the program, 54% were referred to a housing counseling agency. Of those referred, 87% entered the program, a similar percentage as for those who were not referred to housing counseling.

Legal Representation

Homeowners were represented by an attorney in 242 cases (22%), a much higher percentage than in other programs (with the exception of the 6th Circuit (Champaign) program, where homeowners regularly obtained assistance from legal services). Of these, 24 received free legal services: 20 were represented by Northern Illinois University Law Clinic students, while Prairie State Legal Services assisted four homeowners. The other 218 had private counsel.

Wish to Keep Home

Of the 1,228 homeowners who said whether they wanted to keep their home, 978 (80%) said they did, while 161 (13%) said they didn't. Another 89 (7%) were undecided at intake.

Reason for Default¹¹

The vast majority of homeowners who provided a reason for default, 91%, said they defaulted on their loan due to losing their job (39%), or losing income or earning less than when they bought their home (52%). A small percentage blamed debt or increased expenses (4%), or problems with their lender or changes to their loan (2%). Three percent provided a miscellaneous reason.

¹¹ This is based on 1,228 responses, a 92% response rate.

PROGRAM PERFORMANCE

A foreclosure mediation program's performance is based on a number of factors:

- The proportion of homeowners facing foreclosure who participate¹²
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lender
- How many of those outcomes are positive – either retentions or relinquishments, with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situation and ensuring they are treated well

PERFORMANCE SNAPSHOT Program Launch - December 2017	
Impact	1,323 homeowners facing foreclosure benefitted from this program; 291 avoided foreclosure and 253 saved their home
Participation	On average, 282 homeowners entered the program each year
Outcomes	27% of participating homeowners avoided foreclosure 52% who completed the program avoided foreclosure Of those who avoided foreclosure, 88% retained their home
Agreement Rate	Mediation resulted in agreement in 39% of cases
Participant Experience	Homeowners felt respected and treated fairly; the vast majority were satisfied with their experience and the outcome
Time in Program	Cases averaged 125 days to complete mediation

Program Impact

Program impact is defined, for this evaluation, as the percentage of homeowners facing foreclosure who have been assisted in some way by the program. This includes providing information to the homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packets, and facilitating negotiations with their lender.

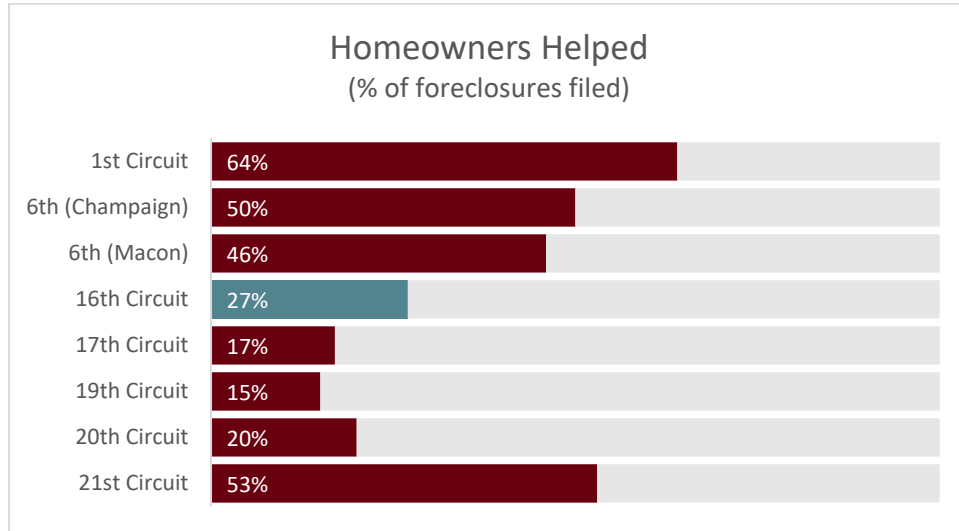
Because the calculations are based on all homeowners facing foreclosure and not just those eligible to participate, the impact of the program is understated. The percentages provided here are lower than they would be if only eligible homeowners were included in the filing numbers. The program's overall impact is further understated because a number of cases that were filed during the evaluation period are still open and, therefore, do not have an outcome.

¹² The terms "homeowners facing foreclosure" or "homeowners with a foreclosure filed against them" will be used throughout this section to denote the full population of homeowners who would have received a notice of mediation. These homeowners include those who are ineligible for the program because they don't fit the requirements laid out in the rule.

All of this means that the percentages discussed below are not precise. They do, however, help to place the program's impact relative to the other programs in the study.

The 16th Circuit program has benefitted almost one in three homeowners facing foreclosure

The program helped 1,323 of 4,975 homeowners who faced foreclosure during the evaluation period, or 27%. This percentage places it fifth of the eight programs and first among the multi-step entry and hybrid programs.



The full 27% of homeowners were given assistance during the intake phone call with the program coordinator. At this conference, the program coordinator informed them of resources available to them, talked to them about their options for their home and explained the foreclosure mediation program. Thus, 27% of homeowners facing foreclosure received information that helped them navigate the foreclosure process, whether or not they participated in the program. The program then assisted the homeowners who continued in the process to try to avoid foreclosure by helping them submit their loan modification packet to their lender and then, by helping them to discuss their options with their lender.

WHAT DOES THIS MEAN?

The court designed the program to maximize participation by telling homeowners in their notification of mediation that they *must* call the program coordinator and by orienting the homeowners to the program prior to entering it. This helps them make the decision about whether to enter the program and understand what they need to do to participate.

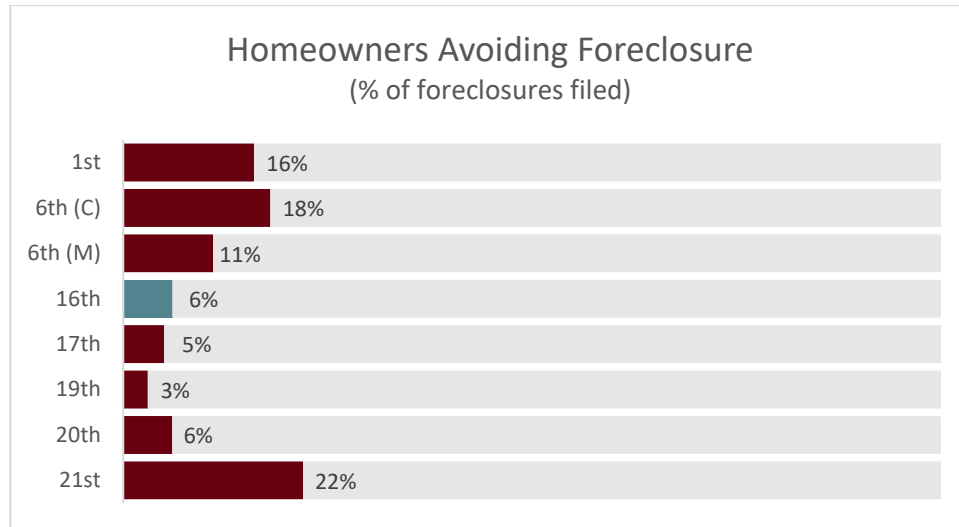
This process appears to be making a difference in two ways – first, by getting more homeowners to contact the program in the first place, and second, by having more homeowners enter the program after contacting it. The first is due in large part to telling homeowners they are required to contact the program coordinator. The second is likely due, in part, to the relatively low barriers to entry, as well as homeowners being given a one-on-one orientation to the program before they enter. This develops a relationship between the program and the homeowners, and also gives them more information that allows them to make a more informed decision about whether the program could be helpful to them.

Homeowners Avoiding Foreclosure

The program helped almost 300 homeowners avoid foreclosure

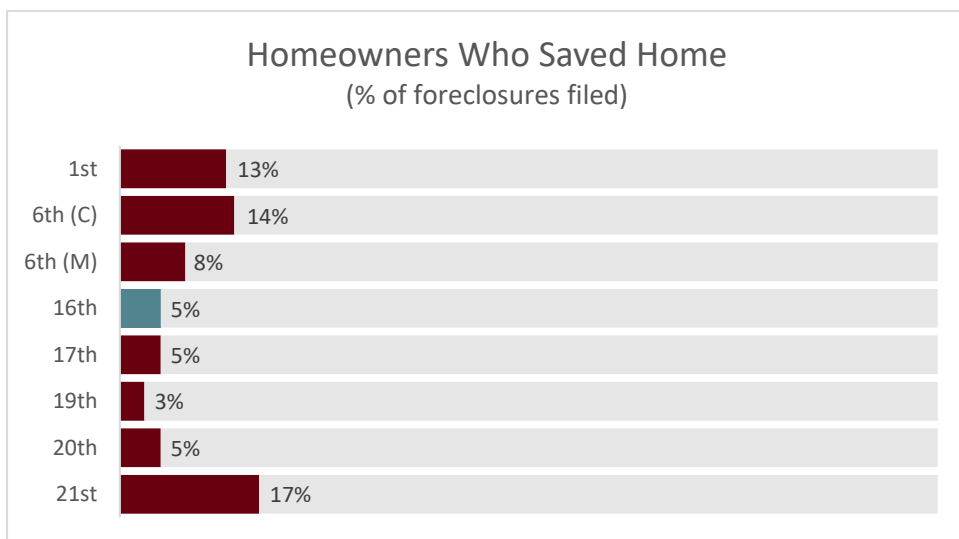
If the homeowners decide to participate, the program also helps them by working with them to submit their loan modification packet, and then by facilitating communication and negotiation with their lender. If they are eligible and they agree to the lender's proposed terms, homeowners can save their home or reach an agreement with their lender that allows them to exit their home gracefully.

Of the homeowners who had a foreclosure filed against them during the evaluation period, 297, or 6%, were able to avoid foreclosure.



Homeowners Saving Home

Most of the homeowners who avoided foreclosure were able to save their home. Thus, 259 homeowners who had a foreclosure filed against them were able to save their home through the program.



WHAT DOES THIS MEAN?

It appears that participation rates affect the overall program impact, as the 16th Circuit program's relatively low participation rate has led to a lower percentage of homeowners avoiding foreclosure.

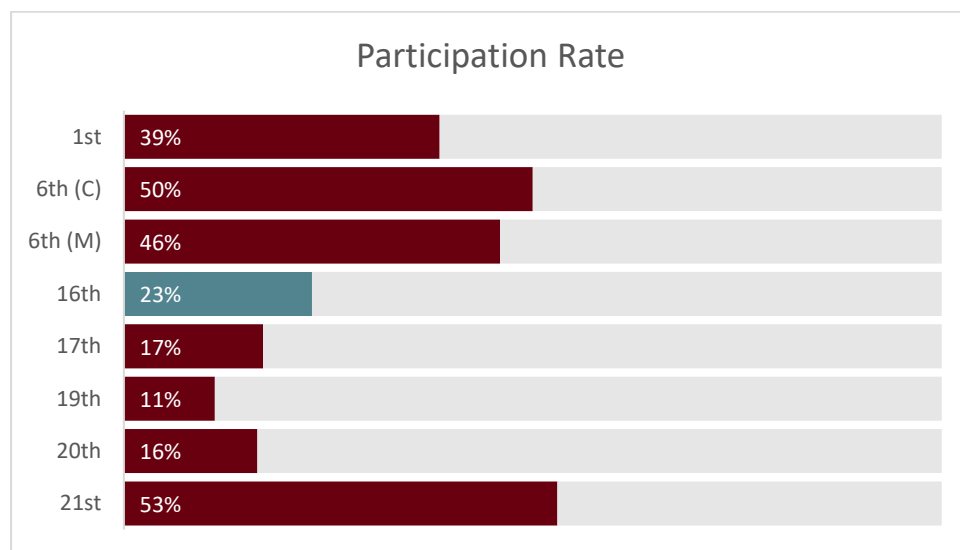
Participation

Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In the 16th Circuit program, homeowners are considered to participate if they contact the program coordinator and file a court appearance. Thus, homeowners can start the process to enter the program, but not complete it. This means that the program has two tasks in bringing homeowners into the program. The first is encouraging the homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

Almost 1 in 4 homeowners facing foreclosure participated in the program

The 16th Circuit program did well in both recruiting homeowners and getting them to participate, when compared to the multi-step entry programs. At 26.6%, the percentage of homeowners facing foreclosure who contacted the program is 3.9% higher than the highest multi-step entry program. Its 23% participation rate is 4.1% higher than the highest rate for a multi-step entry program.

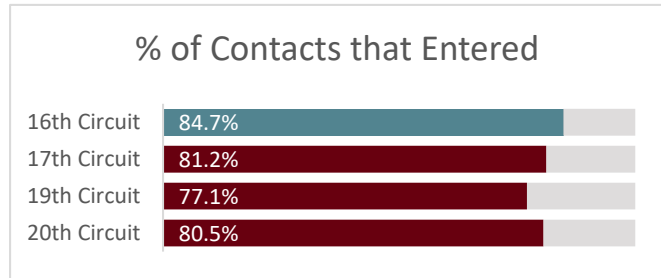


Conversion of Contacts to Entries

The 16th Circuit program has the highest percentage of entries after the homeowners contact the program

Because homeowners need to take more than one step to enter the 16th Circuit program, an important measure for the program is the percentage of homeowners who contact the program who later enter it. The 16th Circuit program does a good job of getting homeowners who contact it to complete the steps to participate. The program's 85%

conversion rate from contacts to entries is higher than the multi-step entry programs. However, it is slightly lower than the 19th Circuit program, which had an 88% conversion rate after it shifted to a hybrid program type.



The percentage of contacting homeowners who entered the program declined in 2017

The percentage of homeowners who entered program after contacting it declined from 85% in 2016 to 78% in 2017. This may be, in part, attributable to two changes made at the court level in 2017. The first was a shift to e-filing at the beginning of the year, which, according to the program coordinator, has made the process for filing a court appearance more confusing. The second was an increase in the fee for filing the appearance from \$167 to \$228, which occurred mid-2017. The percentage of homeowners who contacted the program but then didn't file an appearance rose from 13.7% in 2016 to 16.0% in 2017. This 2.3% difference, then, accounts for one-third of the 7% drop in the conversion rate from 2016 to 2017.

Year	% Entered/Contacted
2014	86.5%
2015	87.1%
2016	85.2%
2017	78.3%
Total	84.7%

The main cause of the drop in conversion rate is the percentage who simply did not follow up after the initial intake call despite filing an appearance, which rose from 1% to 6.9% of those who contacted the program. The reason for this is anecdotal. The program coordinator said that the number of homeowners who contacted him and then indicated that they were going to obtain a reinstatement had climbed in the last year.

Reasons Homeowners Didn't Enter Program

The most common reason homeowners did not enter the program was that they did not file an appearance. Fully 13% of homeowners who contacted the program coordinator did not file their appearance.

Reason Homeowners Didn't Enter Program	#	% of contacted
Did not file a court appearance	175	13.2%
Did not follow up after contacting program	22	1.6%
Was not eligible for the program	6	0.2%
Total	203	

WHAT DOES THIS MEAN?

Although the data doesn't indicate the reason individual homeowners didn't file an appearance, it is likely that the need to file an appearance is the biggest barrier homeowners have to overcome in order to participate in the program.

RECOMMENDATION: Continue to work with the court librarian and help desk volunteers to figure out how to best help homeowners file their appearance.

Outcomes

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot, and should not, expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

Homeowners who entered the program were much more likely to leave early than to avoid foreclosure. Almost 30% of participating homeowners were able to keep their homes.

Program outcomes examined for the 16th Circuit program include:

- Program completion rate and reasons for non-completion
- Foreclosure avoidance rate
- Types of home retention
- Effect of representation on outcomes

Overall Outcomes

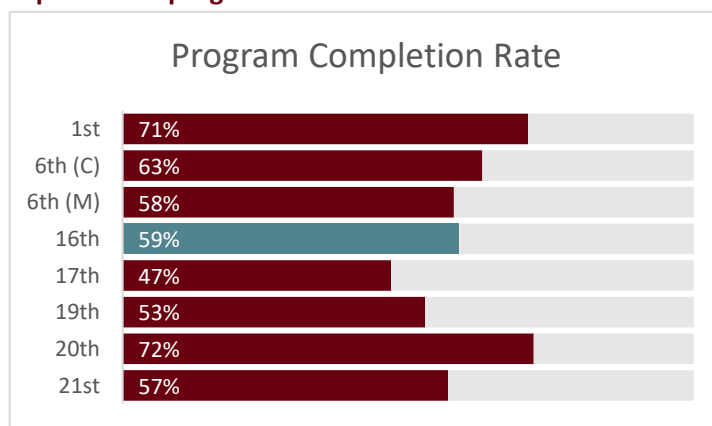
Homeowners who entered the 16th Circuit program were more likely to get to the point at which they could discuss their options with their lender than to exit the program early. Once they did, they were slightly more likely to reach an agreement to avoid foreclosure than to leave the program without an agreement.

Outcomes (n = 1033)		
Agreement: Retention	256	25%
Agreement: Relinquishment	38	4%
No Agreement	288	28%
Closed: Program Not Completed	425	41%
Other	26	3%

Completion Rate

Almost 6 in 10 participating homeowners completed the program

Of the homeowners who entered the program, 59% were able to complete it. This is a much higher rate than was found in the 2015 evaluation. This places it in the middle of the eight Attorney General-funded programs. The percentage of homeowners who did not complete the program declined from 56% in 2014 to 28% in 2016 before rising to 36% in 2017.



WHAT DOES THIS MEAN?

If homeowners entered the program, they were likely to complete the steps necessary to have their lender assess and discuss a possible loan modification or other foreclosure avoidance option. These steps include the long and difficult process of completing the loan modification packet and providing any missing documents required for their lender to review the packet. The probability of homeowners completing the program rose as the percentage of homeowners providing their documents within the deadline increased from 65% to 79%. This increase did not coincide with an increase in the percentage of homeowners represented by an attorney. It may be due to what the program coordinator said was a greater emphasis on housing counseling after the first year.

Completion Rate by Year	
2014	44%
2015	59%
2016	71%
2017	64%

Reasons for Non-Completion

Of the 423 homeowners who participated but didn't complete the program, 309, or 73% didn't complete their documentation before the deadline. Another 38 (9%) didn't appear for a session. Thus, 82% either gave up or decided to leave without telling the program. Another 13% told the program they were withdrawing voluntarily from the program.

Reason Program Not Completed	#	%
Did not complete documentation within timeframe	309	73%
Withdrew voluntarily	54	13%
Did not appear for a session	38	9%
Did not qualify for available options	5	1%
Other	14	3%
Unknown	5	1%
TOTAL	425	

WHAT DOES THIS MEAN?

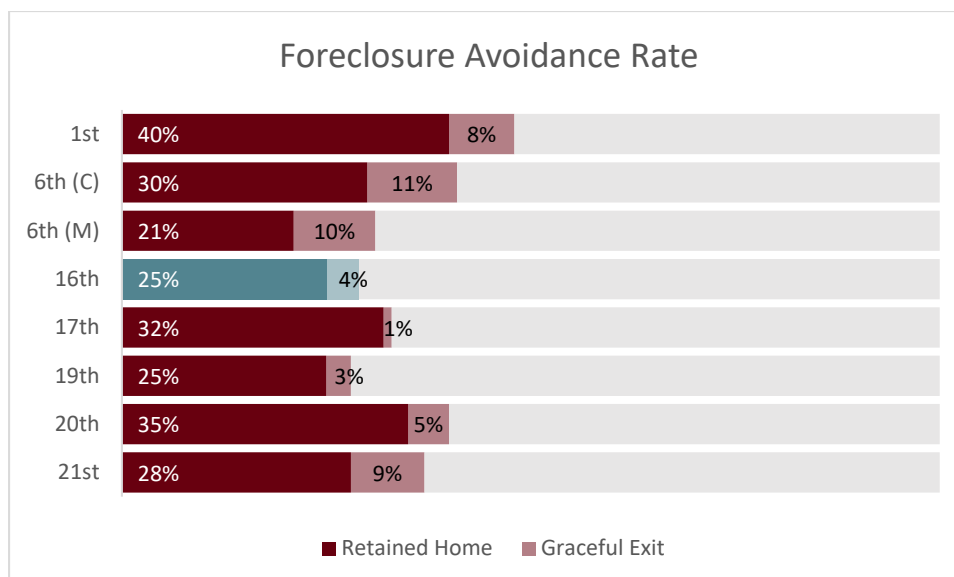
As with other programs, it is not clear how many homeowners did not complete the program because they voluntarily withdrew at some point and how many did not complete it because they failed to comply with a step for some other reason because the homeowners don't always communicate their decisions. The data does show that at least 13% made the positive decision to withdraw, with at least 1% leaving because they didn't qualify for an option to save their home.

Those who left the program without negotiating with their lender were most likely to leave at the outset, by failing to submit a completed packet to their lender before the deadline. As noted above, this may have been a deliberate decision that was not communicated to the program. Alternatively, they could have had difficulty putting the documents together or could have just given up. In this program, those homeowners who do not participate in housing counseling do not get help completing their packet or working through the document exchange process. While many homeowners who do not receive housing counseling have legal representation or have already submitted their packet before contacting the program, it is possible that some require more assistance.

Foreclosure Avoidance**Almost 3 in 10 participating homeowners avoided foreclosure**

Of the 1,033 homeowners whose cases were closed from the program, 295 (29%) avoided foreclosure by saving their home or gracefully exiting it. Most of these homeowners, 259 (25%), reached an agreement that saved their homes, while 36 (4%) negotiated a way for them to gracefully exit their home without a foreclosure. This foreclosure avoidance rate places it second from the bottom of the eight programs.

Another 295 homeowners (29%) did not reach agreement with their lender. Of those who completed the program, 46% saved their homes. This is comparable to other programs.



WHAT DOES THIS MEAN?

The program had one of the lower retention rates of the eight programs. The main reason for this is the program's high no agreement rate, which was the outcome of 50% of completed cases. Another contributing factor is that program coordinator did not always know when the homeowners received a reinstatement. Therefore, not all reinstatements were recorded.

Types of Retentions

Most of the homeowners who saved their home did so through a loan modification. The other ways in which homeowners were able to keep their homes were through reinstatement of the loan (meaning the homeowners paid the entire amount owed) and forbearance. Thirteen (5%) were able to keep their home through the assistance of the Hardest Hit Fund.

Types of Retentions		
Loan Modification	216	85%
Reinstatement	20	8%
Hardest Hit Fund	13	5%
Forbearance	4	1%

Relinquishments

About 15% of homeowners wanting to leave their homes were able to agree to exit gracefully

The majority of the 38 homeowners who reached an agreement with their lender to relinquish their home said they did not want to keep their home at the time of intake. Of the 141 participating homeowners who said they didn't want to keep their home, 22 (15%) were able to reach such an agreement. (Another 3 reached an agreement to keep their home.)

Two-thirds of the homeowners who agreed to exit gracefully obtained approval from their lender for a short sale. The others agreed to a consent judgment (3), a deed in lieu (3), or were able to sell their home (2). The type of relinquishment for four were unknown.

WHAT DOES THIS MEAN?

The 16th Circuit program is the only program with a large number of homeowners who are known to have entered the program with the goal of exiting their home gracefully. The outcomes of these cases show that foreclosure mediation can help these homeowners.

Outcomes by Program Phase

The program has three phases: pre-mediation, lender review and mediation. The outcomes, however, are divided into those that occur before referral to mediation and those that occur after referral. Those that occur before referral are those in which the case is closed during either the pre-mediation or lender review phase. Those outcomes that are recorded as occurring after referral to mediation aren't necessarily mediation outcomes. Some cases close after the lender completes its review of the packet, but before the first mediation session.

The most likely outcome before the homeowners are referred on to mediation is for the homeowners to exit the program without completing it. Once they reached mediation, the homeowners almost always completed the process, with 32% coming to an agreement with their lender.

Homeowners who exited the program mostly did so before being referred to mediation

Of the 425 homeowners who didn't complete the program, 367 (86%) left before being referred to mediation. On the other hand, almost half of those who reached agreement to save their home did so being referred to a mediator.

Pre-Mediation Outcomes (n = 536)		
Agreement: Retention	122	23%
Agreement: Relinquishment	7	1%
No Agreement	26	5%
Closed: Program Not Completed	367	68%
Other	14	3%

WHAT DOES THIS MEAN?

A large number of homeowners were able to avoid foreclosure even before going to mediation, but a small majority needed mediation to do so. As with all programs, most homeowners who drop out of the program do so during the pre-mediation phase.

32% of cases referred to mediations ended with an agreement

Of the 497 homeowners referred to mediation, 160 (32%) reached an agreement to avoid foreclosure, with 131 (26%) saving their home. More than half, 269, were able to discuss their options with their lender, but left without an agreement. Only 58 left without negotiating with their lender.

Mediation Outcomes (n = 497)		
Agreement: Retention	131	26%
Agreement: Relinquishment	29	6%
No Agreement	269	54%
Closed: Program Not Completed	58	12%
Other	10	2%

The agreement rate dropped significantly after 2014, when 46% of homeowners who were referred to mediation left with an agreement that allowed them to avoid foreclosure. The entire difference is in the

rise in no agreements, which increased from 42% to 54%, as the percentage of homeowners referred to mediation who completed the program stayed the same.

WHAT DOES THIS MEAN?

The program has a lower agreement rate than the 17th Circuit and 19th Circuit programs, the two other programs that have held a significant number of mediations, and like both these programs, the agreement rate dropped after 2014. The reason for this is unknown. However, the agreement rate is in the mid-range for programs nationally, where agreement rates range from 21% to 82%.¹³

What Affects Outcomes?

Effect of Attending Housing Counseling on Outcomes

In the 2015 evaluation, housing counseling was reported to have no effect on outcomes. It was later determined that the data upon which this was based only indicated whether the homeowners were referred to a housing counselor, and not whether the homeowners received assistance from a housing counselor. Therefore, there is no information about the effect of housing counseling on outcomes in the 16th Circuit program.

Effect of Legal Representation on Outcomes

Legal representation had a significant effect on whether homeowners completed the program

The 16th Circuit program's high homeowner representation rate provides good insight into what impact having an attorney has on the likelihood of homeowners moving through the program and saving their homes. The data shows that representation had a significant impact on whether the homeowners reached the point at which they could discuss alternatives to foreclosure with their lender, with 45% of those with an attorney completing the program as compared to 26% of those who didn't have an attorney. However, homeowners who had an attorney were no more likely to save their home while in the program than those who didn't have an attorney. This is because homeowners with attorneys were significantly less likely to reach agreement with their lender.

	Had Attorney		Did Not Have Attorney	
Retention	61	27%	192	24%
Relinquishment	6	3%	32	4%
No Agreement*	95	42%	200	25%
Program Not Completed*	59	26%	366	45%
Other	7	3%	15	2%

*Significant at the .01 level.

Wish to Keep Home

Homeowners who wanted to keep their homes were significantly more likely to complete the program

Those homeowners who indicated at intake that they wanted to keep their home were significantly more likely to both complete the program and avoid foreclosure than those who said they weren't

¹³ For national statistics, see: Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE MEDIATION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

interested in keeping their home or were undecided. Of the 1,319 homeowners who contacted the program and said whether they wanted to keep their home, 49% of those who said they did ended up completing the program, while 37% of those who didn't want to keep their home completed it.¹⁴ Of those who entered the program, 29% of those who said they wanted to keep their home were able to avoid foreclosure, while 18% of those who didn't want to keep their home avoided foreclosure.¹⁵

WHAT DOES THIS MEAN?

Although homeowners who don't want to keep their homes can be helped by the program, the decision to try to avoid foreclosure or to let the foreclosure proceed is complicated. For some of the homeowners, the best outcome is to let the foreclosure process move forward, particularly if they cannot obtain a loan modification or other retention option. This limits the number of homeowners who can or want to avoid foreclosure through a relinquishment

Time in Program

Time in program refers to the amount of time it takes for a case to move from the homeowners' first contact with the program to the point at which the case leaves, either to return to the foreclosure process or to be dismissed due to the homeowners and their lender agreeing to a retention or relinquishment option. In the 16th Circuit program, this time period is calculated from the date the homeowners call the program coordinator for intake until either the case leaves the program or the homeowners agree to a temporary loan modification. This calculation only takes into account the amount of time the program has control over the case. Once the homeowners are in a trial payment period, the bank controls the progress of the case. However, in order to compare time in program to other programs that didn't track the date of agreement to a temporary loan modification, a second calculation was made that includes the trial payment period.

There were no delays in the foreclosure mediation process

Those homeowners who completed negotiations with their lender did so, on average, in about 4.4 months, with a median of 119 and a wide range of eight days to 521 days. When the homeowners left before completing negotiations, they left the program, on average, in about 2.5 months. Time in program grew to 153 days (5 months) when the trial payment period was included.

WHAT DOES THIS MEAN?

The court and some stakeholders were concerned that the program would delay the foreclosure

proceedings unnecessarily. The data show that this concern was effectively addressed. When homeowners dropped out of the program, they did so in about 2.5 months, which is the minimum

Average Days in Program	
In program – completed	In program – not completed
125	74

¹⁴ P=.0028

¹⁵ P=.0059

amount of time that the foreclosure process is stayed. The program's timeline is similar to other programs in this study, but much shorter than some programs outside of Illinois.¹⁶

Sustainability

One of the Attorney General's main goals for the grant was for the programs it funded to become self-sustaining. The 16th Circuit program achieved this goal. The court and program administrator, Resolution Systems Institute (RSI), worked together to devise a plan that allowed the program to continue in the absence of grant funding. It will be funded through filing fees and continue to be administered by RSI.

Participant Experience

In foreclosure mediation programs, homeowners should leave mediation with an experience of procedural justice and should leave feeling good about their experience. Lender representatives and attorneys for the parties should have a similar experience.

For the evaluation, each program was asked to have the homeowners complete surveys at the end of the first intake or pre-mediation session and after each mediation session. In the 16th Circuit program, the participants only completed surveys after each mediation session.

Pre-Mediation Session/Housing Counseling Surveys

The housing counselors did not distribute surveys to the homeowners, so there is no information on their experience with housing counseling.

Mediation Session Surveys¹⁷

Most participants had a positive experience with mediation. Most felt they could talk about their issues and concerns, all felt the mediator understood what was important to them, and most were satisfied with their experience and felt they were treated fairly and with respect. However, lenders and lender attorneys were slightly more likely than homeowners and their attorneys to feel that they were able to

¹⁶ For example, in Connecticut, the average time in program is 484 days. See, Gloria Jean Gong and Carl Brinton, [CONNECTICUT JUDICIAL BRANCH FORECLOSURE MEDIATION PROGRAM](#) (October 2014). In Maine, the time in program averaged between 131 and 173 days. See, Laura S. Pearlman, [FORECLOSURE DIVERSION PROGRAM: REPORT TO THE JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL AFFAIRS AND THE JOINT STANDING COMMITTEE ON JUDICIARY](#), Maine Administrative Office of the Courts (February 13, 2014).

¹⁷ Survey Method & Response Rate:

The mediators handed the surveys to participants at the end of each mediation session and then left the room while the participants completed them. Since lender representatives were on the phone, lender attorneys asked them the questions and completed the surveys for them. When participants responded more than once because they attended more than one session, the earlier responses were removed in order to reduce bias.

In all, 483 homeowners in 363 cases completed the surveys. Homeowners responded in 93% of the 387 cases mediated. Lender representatives responded in 233 cases, which is a 60% response rate. Lender attorneys responded in 361 cases, matching the homeowners' 93% response rate, while 128 homeowner attorneys responded.

talk about what was important to them, to be satisfied with their experience and the outcome of their mediation, and to believe the mediation process was very fair.

Procedural Justice

The court wanted homeowners, in particular, to have a positive experience in the program. That is, it wanted a process in which homeowners felt they were treated with dignity and that they had some control over what was happening to them.

For this evaluation, this was measured by whether the homeowners experienced procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system.¹⁸ Its presence or lack thereof has a significant 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 process).¹⁹

To measure the homeowners' experience of procedural justice, they were asked questions that explored whether they felt respected and whether they felt they had voice:

- Were you able to talk about the issues that were most important to you?
 - Response Scale: All, Most, Some, None
- Did the mediator understand what was important to you?
 - Response Scale: Very Much, Somewhat, Not at All
- Did the mediator treat you with respect?
 - Response Scale: Very Much, Somewhat, Not at All
- Did the mediator treat you fairly?
 - Response Scale: Very Much, Somewhat, Not at All
- Was the mediation process fair?
 - Response Scale: Very Much, Somewhat, Not at All

Homeowners felt they had an experience of procedural justice

Most homeowners felt they had voice in that they were able to talk about their issues and concerns, and that they felt the mediator understood what was important to them. All but one felt respected and all but two felt they were treated fairly. Most felt they were treated with very much respect and very fairly.

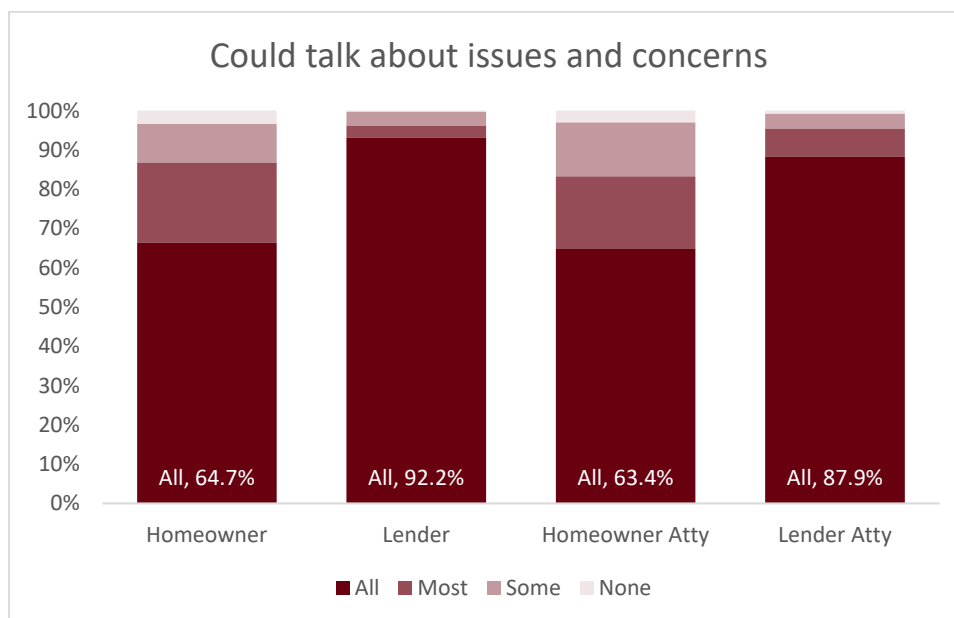
Able to Talk about Issues and Concerns

Almost two-thirds of homeowners felt they were able to talk about "all" the issues and concerns that were most important to them. Another 26% of homeowners felt they were able to talk about almost everything that was important to them. Their attorneys had similar opinions about their ability to talk

¹⁸ Alan E. Lind, "In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System," *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

¹⁹ *Id.*

about what was important to their side. Lenders and their attorneys were much more likely to believe they were able to talk about their issues and concerns, with about nine in ten saying so.



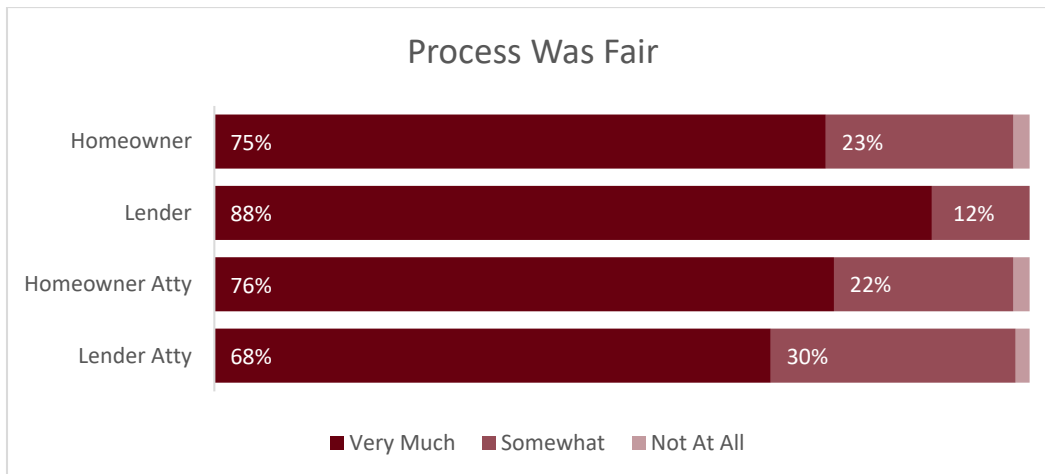
Understanding, Respect and Fairness

This difference between the homeowner side and the lender side was not apparent in any of the other questions related to procedural justice, as almost all participants said the mediator understood what was important to them or their side, respected them and treated them fairly.

% of Participants Responding "Very Much"	Mediator Understood	Mediator Treated You with Respect	Mediator Treated You Fairly
Homeowner	86%	97%	96%
Lender	86%	97%	94%
Homeowner Attorney	90%	96%	96%
Lender Attorney	88%	97%	95%

Fairness of the Process

Homeowners were more likely to believe they were treated fairly than to believe the process was fair. Nonetheless, almost all believed the process was at least somewhat fair. Homeowners and lender attorneys were both less likely to perceive the process to be very fair than lender representatives or homeowner attorneys. The 2015 evaluation revealed that fewer than two-thirds of homeowners believed that the process was very fair. This has increased to 75%, with 98% overall viewing the process to be at least somewhat fair.



The homeowners' comments indicate that their sense of procedural fairness often was colored by the actions of their lender. Almost all who commented negatively about their lender selected "somewhat" or "not at all" for their response to whether the process was fair.

Comments included:

- "There was not a mediation. [Lender] had decided options for us before we arrived."
- "Dictatorship – no mediation took place – complete inflexibility on the part of [Lender]".
- "No habo un dialogo solo el banco dio sus opciones y sus reglas." [There was no dialogue – the lender only gave its options and its rules.]
- "Lender came unable to make changes to offer. All or nothing kind of options only. I would have appreciated some movement possible to resolve things here and now instead of lengthy appeal process without verified guarantees."
- "It was not a mediation and was falsely marketed. It was a one way take it or leave it meeting."

WHAT DOES THIS MEAN?

The mediators provided a procedurally just process to all parties. Importantly, they provided a voice to homeowners and treated them with respect, which the judges said was missing with homeowners' interactions with their lenders. In 2015, it was recommended that the program do a better job of managing homeowner expectations prior to mediation, as their comments indicated they believed they would be able to negotiate more freely than might have been possible. The program appears to have done this, as homeowners were more likely to believe the process was fair after the 2015 evaluation, despite a lower agreement rate.

Mediator Skills

Three questions were asked to gain an understanding of the mediators' skills:

- Was the mediator active enough in helping you to work out the issues in the dispute?
- Did the mediator push you too hard to get you to settle?
- If given a choice, would you use this mediator again? (Attorneys only)

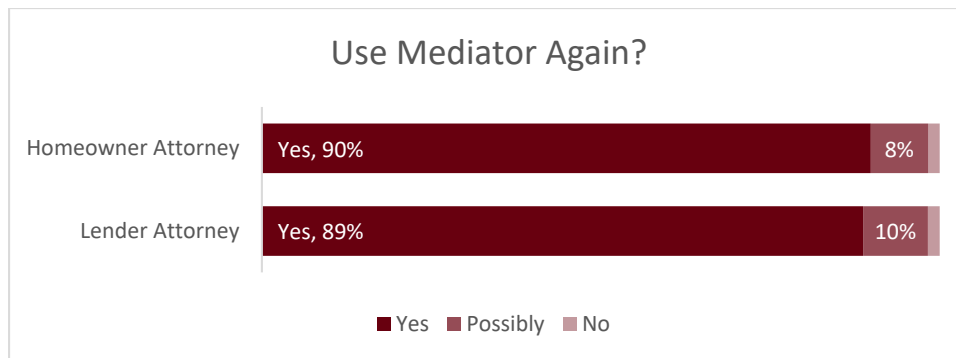
Almost all participants believed the mediator was active enough, but not coercive

Effective mediation requires a mediator who walks a fine line between being actively involved in assisting the parties without pushing them into a result they do not want. The results show that the participants felt these mediators walked that line. Almost all participants believed the mediator was active enough in helping them to work out the issues in the dispute, and a similarly high percentage felt the mediator was not pushing them too hard to get them to settle.

	Mediator Active Enough	Mediator Did Not Push Too Hard
Homeowner	95%	95%
Lender	98%	92%
Homeowner Attorney	98%	99%
Lender Attorney	99%	96%

9 in 10 attorneys would use their mediator again

This question is asked as another measure of the mediator's ability. Since homeowners do not have the experience necessary to answer this question knowledgeably, only the attorneys were asked this question. The majority of attorneys said would definitely use their mediator again; few had reservations about doing so.

**Comments about the Mediator**

In response to why they would use the mediator again, the attorneys recognized a mediator's skill and neutrality:

- "She listened to both sides without picking sides or playing favorites." [Lender Attorney]
- "Laid out problem/issue and was neutral" [Lender Attorney]
- "She was very good at identifying issues and keeping the conversation on point." [Lender Attorney]
- "She was very effective, listened to both sides." [Lender Attorney]
- "He was very nice and fair to both parties. He helped organize the mediation." [Homeowner Attorney]
- "Our mediator was very respectful and made sure our client had all of her questions answered." [Homeowner Attorney]

- “[The mediator] was a great listener, summed up both sides positions and understood all concerns and issues.” [Lender Attorney]
- “Seemed to want to discuss all options.” [Homeowner Attorney]

The lender attorneys²⁰ who indicated they definitely would not use the mediator for their case again provided three reasons – lack of skill, bias and lack of knowledge:

- “Pushed hard on issues that were not relevant to discussion, asked questions that were not relevant, and asked numerous times for explanation on something that was legal advice when I explained I couldn't give legal advice, he said it wasn't.”
- “I thought he was insensitive as to the personal problems of the defendant (other side). He offered inappropriate legal advice.”
- “The mediator needlessly pushed for a bank rep to be on the phone before knowing anything about the case, making threats and behaving in a hostile manner. We sat in silence for 20 minutes to track down a contact. He would not let us even begin discussions.”
- “Seemed more interested with keeping the case in the mediation program than proper for a mediator.”
- “Very borrower friendly - does not know the case law and the procedure regarding FC [foreclosure] cases.”
- “Did not participate.”
- “The mediator was not as active in the mediation process and didn't direct the flow of conversation during the session. He also didn't address the parties concerns during the session. Plaintiff's concerns particularly were not addressed.”

The comments those who responded “possibly” included:

- “Did not have package and had not read file.”
- “This mediation would have benefited from a mediator with more knowledge/experience in reverse mortgages.”
- “A more experienced mediator could better handle complicated matters.”
- “Insistence on having servicer on the line w/no purpose. States that it was “in the rules” but wouldn't produce any.”
- “I felt like it took a long time to get to the end result when it was determined that a complete package had not been submitted. The necessary items should have been discussed and mediation terminated/continued without so much additional discussion.”
- “She was very nice and very helpful, however she could use some more knowledge regarding the foreclosure process and the loan modification review process.”

WHAT DOES THIS MEAN?

The participants felt, in most cases, that the mediator was actively helpful in resolving the dispute while not pushing too hard to get them to settle (a sign that they are violating self-determination, one of the

²⁰ Only one homeowner attorney responded “no” to this question. That attorney did not provide a reason.

main principles of mediation). In most cases, the attorneys would use the mediator again, although lender attorneys were not as positive in their assessment of the mediators as homeowner attorneys.

In the 2015 evaluation, concerns were brought up about the uneven level of skill of the mediators, as 18% of attorneys had reservations about using their mediator again. This percentage has dropped to 11% overall, indicating that mediator skills have developed over time, but there are still concerns about a few mediators. The few negative comments lender attorneys have written about the mediators since the 2015 evaluation are similar to those that they wrote before the evaluation, indicating that not all issues have been resolved. Nonetheless, fewer attorneys have these concerns. This is likely due to steps the program coordinator took to address the issue, including debriefing the mediators after each session and providing a supplemental skills training.

RECOMMENDATION: Continue to debrief mediators and address any deficits in mediator skills or knowledge.

Satisfaction

Almost all participants were satisfied with their experience in mediation

More than nine in ten participants were satisfied with their overall experience in mediation. Homeowners were the least enthusiastic. They were less likely than lender representatives or attorneys to say they were very satisfied and more likely than those on the lender's side to say they were unsatisfied. However, 92% were satisfied.

Satisfaction with the Process				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
Homeowner	49%	43%	4%	4%
Lender	63%	32%	3%	1%
Homeowner Attorney	60%	32%	4%	4%
Lender Attorney	55%	44%	2%	2%

About 8 in 10 participants were satisfied with the outcome of mediation

Homeowners and their attorneys were significantly less likely to be satisfied with the outcome of the mediation than with the process. Only lender representatives were as pleased with the outcome as they were with the process.

Satisfaction with the Outcome				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
Homeowner	35%	45%	13%	7%
Lender	59%	36%	3%	1%
Homeowner Attorney	32%	45%	17%	6%
Lender Attorney	53%	45%	3%	2%

WHAT DOES THIS MEAN?

Overall, homeowners were positive about with their experience, with 92% saying they were very satisfied or satisfied. As expected, they were less satisfied with the outcome. Satisfaction with the outcome in mediation is often tied to whether the parties come to agreement. Given that the majority

of mediations do not end in an agreement, the fact that 80% of homeowners were satisfied with the outcome indicates that some homeowners saw value in the process beyond keeping their home or obtaining an agreement.

The percentages have risen since 2014, when only 86% were satisfied with their experience and 71% were satisfied with the outcome. The 2015 evaluation recommended that the program work on managing homeowners' expectations for mediation. This appears to have happened.

Participant Comments

Participants, in general, praised the forum and the mediators, and complained about the other side when writing comments.

Homeowners

The 181 homeowners who said what they liked about mediation focused on three themes – how they were treated, the opportunity to communicate with their lender and the information they received. Among their comments were:

- “Complete understanding and fairness.”
- “Opportunity to talk.”
- “Gave us clear understanding of options.”
- “A lot better forum to discuss options back and forth.”
- “Very friendly, helpful, and focused.”
- “Everyone listened to me.”
- “An opportunity to discuss face-to-face with someone.”
- “Exchange of information.”
- “Getting both sides to sit down and talk about the situation.”
- “I like that all parties can sit down and discuss options in person. It is more effective than phone calls.”
- “I was educated on the mediation process and given good information as to options available to me.”
- “Neutral, fair atmosphere. Calm approach. No fault approach.”

The 70 homeowners who noted what they didn't like about the mediation primarily complained about their lender and about the outcome.

- “[Lender] attorney was a bit rude (in my opinion) to our attorney.”
- “Hostility from [lender attorney] for attending the final mediation. As the homeowners, we followed through with the entire mediation. Should not be treated with hostility for asking for opposing party to follow through. It is her job.”
- “Uninformed, unprepared plaintiff – for the second time.”
- “The fact that [lender] was emailing our attorney to get info and the email kept coming back – could they not pick up a phone to verify the email? Anything I didn't like was all on [lender] – not the mediation.”
- “[Lender] was unprepared.”

- “I felt that I had no choice but to accept the trial payment in order to get a chance at a HAMP modification.”
- “I think mediation is a misnomer as it implies give and take at the table when in fact HAMP controls the outcome and not at table.”
- “Not able to find any middle ground. Lender/servicer's position prevailed without any concessions.”

Lender Representatives

Few lender representatives commented on their experience. Those who said what they liked focused on the mediator's fairness and knowledge, as well as the efficiency of the process. Those who said what they didn't like also focused on the mediator, but on the mediator's bias and lack of knowledge. They also didn't like how long the process took.

Homeowner Attorneys

Most homeowner attorneys who commented on what made the mediation effective focused on the ability to communicate:

- “Having all parties present including bank on the phone.”
- “It was helpful to have a representative from all parties and a common goal.”
- “Parties with authority participating in mediation process.”
- “Organization, opportunity to discuss issues.”
- “Concise breakdown of issues.”
- “The bank came to the table with a loan modification offer.”

In response to the question about what could be improved, homeowner attorneys generally wanted lenders to be more flexible and for them to have information before the mediation about what would be needed:

- “If the banks representative had more power, more knowledge, and access to more information.”
- “The bank being more willing to negotiate on terms of a modification.”
- “Need individuals from lender who seriously are looking to mediate their issues, interest of lender policies.”
- “Only improvement would have been if bank had provided notice of missing documents sooner.”
- “All information already submitted and potential resolution within horizon.”
- “Prior knowledge of the specific issues.”

Lender Attorneys

The few lender attorneys who commented on what made mediation effective pointed to the mediators and the quality of the discussion:

- “Enough time to discuss all the issues.”
- “Both parties were able to express their concerns and what the options were.”
- “The mediator kept the parties on track.”

- “The mediators were very neutral and listened to both sides.”
- “Everyone was professional.”
- “Very professional and communications were open.”
- “The mediator was professional neutral and excellent in helping parties to openly communicate.”

Even fewer lender attorneys said what could be improved. Those who did focused on issues with the opposing party:

- “Better pre-screening, the borrower didn’t understand a lot of the terms/options available. If he had met with a housing counselor beforehand it probably would have saved a lot of time and better prepared him to make a decision.”
- “Had the borrower submitted the documents needed, the bank could have, perhaps, offered DIL [“Deed in lieu”] or Short Sale Options.”
- “Opposing counsel was angry, but the mediation itself was fine.”

PARTICIPANT CHARACTERISTICS

Given that the foreclosure crisis has hit Black/African-American and Latino/Hispanic homeowners particularly hard,²¹ it is a concern that the racial and ethnic makeup of those who participate in and complete the programs be similar to the racial and ethnic makeup of the county they serve.²² Further, there is a general interest in knowing whom the programs are serving.

Racial/Ethnic Makeup of Participants²³

The program is serving all races and ethnicities equally

Latino/Hispanic homeowners participated at a slightly lower rate than are represented in the county, and Black/African-American homeowners at a slightly higher rate. Neither difference is significant. Of greater importance to the running of the program, Latino/Hispanic homeowner participation slid slightly as the homeowners progressed through the process. This difference was significant.²⁴

²¹ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#). Center for Responsible Lending (June 18, 2010).

Hall, Matthew, Kyle Crowder, Amy Springer. “Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions,” *AMERICAN SOCIOLOGICAL REVIEW* (April 2015).

²² Because there is no accurate demographic data on individual homeowners facing foreclosure in Kane County, the racial and ethnic makeup of the county is used instead of the racial and ethnic makeup of those facing foreclosure.

²³ Race/ethnicity information was provided for 67% of homeowners who contacted the program. The information analyzed is for the primary homeowner. Only 13 of 886 cases included multiple homeowners of different races or ethnicities.

²⁴ P=0.0008.

Homeowner Race/Ethnicity					
	County	Contacted	Entered	Completed	Saved Home
White, Non-Hispanic	58.0%	60.0%	60.1%	64.3%	63.4%
Latino/Hispanic	31.4%	29.0%	28.1%	22.4%	23.4%
Black/African American	5.4%	6.7%	7.3%	7.7%	8.6%

Due to the high rate of attorney representation for homeowners who participate in the 16th Circuit program, the effect of this representation was analyzed in conjunction with the race/ethnicity of a homeowner. The results were interesting, as having an attorney did increase the likelihood of homeowners completing the program, but Latino/Hispanic homeowners without attorneys were significantly less likely to complete the program as non-Hispanic White homeowners without attorneys (38% v 55%), and Latino/Hispanic homeowners with attorneys were also significantly less likely to complete the program as White homeowners with attorneys (63% v 82%).²⁵

WHAT DOES THIS MEAN?

The program did a good job of bringing homeowners of all races and ethnicities into the program. However, for an unknown reason, Latino/Hispanic homeowners were relatively less likely to continue on through the program. This changed since the initial evaluation of 2014 data, which showed Latino/Hispanic homeowners participating and continuing through the program at similar rates as non-Hispanic White and Black/African-American homeowners. The reason for this cannot be determined from the available data.

Income Level of Participants

Most participants had a household income at or below the median for Kane County (\$71,600), with 21% having a household income of \$75,000 or more. Those with an income less than \$20,000 were less likely to complete the program than those with a higher income.

Homeowner Household Income			
	Contacted	Entered	Completed
<\$20,000	17.8%	17.4%	14.6%
\$20,000 - \$34,999	22.9%	22.6%	20.8%
\$35,000 - \$49,999	18.2%	19.0%	18.9%
\$50,000 - \$74,999	19.7%	19.7%	21.0%
\$75,000 - \$99,999	10.2%	10.8%	13.1%
\$100,000-\$149,999	8.0%	7.8%	8.4%
\$150,000+	2.5%	2.7%	3.3%

Generally, the homeowners who were in income ranges above \$50,000 were more likely to save their home than those in the lower income ranges.

²⁵ Too few Black/African-American homeowners had attorneys to include them in the analysis.

	Entered	Saved Home	% Who Saved Home
<\$20,000	130	21	16.2%
\$20,000 - \$34,999	169	29	17.2%
\$35,000 - \$49,999	142	36	25.4%
\$50,000 - \$74,999	147	45	30.6%
\$75,000 - \$99,999	81	23	28.4%
\$100,000-\$149,999	58	14	24.1%

WHAT DOES THIS MEAN?

Homeowners with an income less than \$20,000 would be the least likely to qualify for a loan modification and, therefore, would more likely stop participating in the program prior to completion. Nonetheless, almost half of the homeowners with a household income below \$20,000 were able to talk with their lender and get information about whether they qualified for a foreclosure avoidance option.

Age Range

Almost two-thirds of participating primary homeowners²⁶ were in their 40s and 50s.

Age of Homeowners	
<30 years	1.9%
30-39	16.6%
40-49	32.7%
50-59	31.4%
60-69	13.9%
70-79	2.8%
80+	0.7%

DISCUSSION AND RECOMMENDATIONS

The 16th Circuit program continues to do well at moving homeowners into the program. However, the percentage of homeowners completing the steps to enter dropped in 2017. Homeowners who entered the program from 2015-2017 were more likely to complete their documentation than in 2014, but were also more likely to leave without an agreement to avoid foreclosure. The program also appears to have addressed the issue of managing homeowner expectations, and mediators have become more skilled: homeowners and attorneys who responded to surveys after 2014 were more positive about their experiences and the mediators. In 2015 - 2017, more homeowners had an experience of procedural justice and were satisfied with their experience and the outcome. Fewer attorneys had reservations about using their mediator again.

²⁶ Primary homeowners are the homeowners who are designated as the first homeowner by the program.

Hybrid Model Still Effective

The 16th Circuit decided on a program model that encourages participation by all homeowners by calling the program “mandatory” and instructing the homeowners to call the program coordinator for an initial conference. The initial conference allows the program coordinator to discuss the benefits of participating in the program and to build rapport with the homeowners. This has had the effect of bringing more homeowners into the program than the multi-step entry programs. This is particularly true with homeowners who did not want to keep their home. More homeowners who had the goal of exiting their homes participated in the 16th Circuit program than any other Attorney General-funded program. Mediation benefitted those homeowners who completed the program, with all of them receiving information on their options and the foreclosure process, and 25 reaching agreement for an option that avoided foreclosure.

RECOMMENDATION: Continue the hybrid model. Continue instructing homeowners that they must contact the program coordinator. Continue the initial conferences. Continue to encourage homeowners who do not want to keep their homes, but want a graceful exit, to participate in mediation.

Benefit of Low Barriers to Entry

The program also relatively has low barriers to entry, as the only hurdle to entry is to file a court appearance. This further encourages participation, as seen in the high percentage of homeowners who contact the program and then enter it. However, this percentage dropped from 85% in 2016 to 78% in 2017, with a third of the drop being caused by more homeowners not filing an appearance, and the rest being attributable to homeowners not following up at all after having filed the appearance. While the court and program have worked to make it easier to enter the program by facilitating the filing of the court appearance, this may have been impeded by changes to court procedures that took place in 2017. First, as mandated by the Illinois Supreme Court, the court began to use e-filing, which included the filing of court appearances. The second could be the cost of filing the appearance, which increased in 2017. E-filing the appearance is more complicated and confusing than filing it by paper, which may be one reason for the decline in appearances filed, and filing a waiver for the filing fee also became more complex with e-filing.

The reason for the increase in homeowners who contacted the program and then didn’t follow up is not known. The program coordinator’s theory for at least part of it is that reinstatements have risen and homeowners just aren’t letting him know when they receive the reinstatement.

RECOMMENDATION: The help desk ended in September 2018, leaving the law librarian as the only person available to help homeowners with e-filing. Her efforts may be aided by a step-by-step guide or a video that can step the homeowners through the process.

Need for Second Opportunity to Participate

While the program has been more successful at encouraging participation than multi-step entry programs, it still has room for improvement. The 2015 evaluation recommended that the court offer homeowners a second opportunity to participate, as only five cases were referred by judges during the

program's first year. This continues to be an area for improvement. Over the remaining three years, only 36 homeowners were ordered into the program by the judges, 4% of the total who contacted the program. Another 30 were ordered back in after either failing to file an appearance or to complete the program, bringing the total number of homeowners offered a second opportunity to participate to 66, or 7% of all homeowners who contacted the program.

RECOMMENDATION: Offer more homeowners a second opportunity to participate by referring those who missed the initial deadline to contact the program. Referrals should be made for those homeowners who have shown they have tried to work with their lender in the past.

More Completions, Fewer Agreements

In 2014, the 16th Circuit program had the second lowest completion rate, with only 44% of homeowners who entered the program completing it. Since 2014, the completion rate increased substantially, to an overall average of 59%, but an average over the last three years of 64%. The main reason for this was an increase in the percentage of homeowners who completed their packets. In 2014, this was a problem, with only 65% of participating homeowners submitting their packets within the required timeframe. The program has effectively addressed this issue, with 79% of homeowners successfully submitting their packets in 2017. The reason for the rise in completions is partially attributable to a greater emphasis on housing counseling. However, the rise is seen in those homeowners who weren't referred to housing counseling as well.

At the same time, the proportion of homeowners who completed their packet, but then left the program without an agreement with their lender, increased from 14% in 2014 to a three-year average of 33% in 2015 - 2017. This pattern is seen in the 17th Circuit and 19th Circuit programs as well. The reason for the rise in no agreements is not known.

RECOMMENDATION: Continue to emphasize the use of housing counselors. Examine why the number of homeowners leaving without an agreement has risen.

Homeowner Assessment of Mediation Has Improved

More than 90% of homeowners were satisfied with their experience in mediation and 80% were satisfied with the outcome. This is an increase from 2014, when 86% were satisfied with their experience and 71% were satisfied with the outcome. Further, more homeowners had an experience of procedural justice, with more of them feeling they could talk about all or most of their issues and concerns, they were treated very fairly, and that the process was "very much" fair. This indicates that even more homeowners who responded to the surveys in 2015-2017 appeared to be having the experience that the court wanted them to have when it created the program – a more humanized experience in which they were able to communicate with their lender.

This may be due to more homeowners receiving housing counseling assistance. The 2015 evaluation found that the homeowners who did not have a good experience in mediation had expected to have greater flexibility in negotiations than allowed by the constraints of investor regulations and the

homeowners' financial situation. The evaluation recommended that the program do more to manage homeowner expectations prior to mediation. This appears to have been done, either through greater use of housing counseling or through communications with the program coordinator.

Mediator Skills

The participants, in general, gave high marks to the mediators. Participants said that mediators were helpful while not being coercive and they treated the parties fairly and with respect. Nonetheless, in 47 cases, the lender attorney had reservations about using the mediator again. The homeowner attorney said the same in 11 cases.

RECOMMENDATION: Continue having the program coordinator debrief with the mediator after mediation sessions, reviewing the survey feedback. Provide mediators with learning opportunities. For mediators against whom there are complaints or for when there are poor marks on surveys, discuss mediator performance with the Chief Judge to decide if the mediators should be required to conduct more co-mediations or should be dismissed from the program.

Latino/Hispanic Homeowners Were Less Likely to Complete the Program

The racial and ethnic makeup of the homeowners who enter the program is similar to that of the entire county. This points to homeowners of all races and ethnicities participating equally. When they enter, however, Latino/Hispanic homeowners have a significantly less probability of completing the program, whether they have an attorney or not.

RECOMMENDATION: Look further into reasons that Latino/Hispanic homeowners may not be completing the program.

CONCLUSION

The 16th Judicial Circuit Mortgage Foreclosure Mediation Program is successfully serving more homeowners than any other program. Its model provides the benefits of relatively easy entry into the process. Homeowners and other participants feel they are being treated fairly and with respect and have a positive experience overall. This program has successfully addressed issues with program completion, with significantly more homeowners completing their packets within the required timeframe. It has also addressed concerns about some mediators, as demonstrated by more positive responses from both homeowners and attorneys since the last evaluation. However, judges still do not refer cases into the program at rates similar to multi-step entry programs. An additional concern is the lower completion rate for Latino/Hispanic homeowners. The program should focus on both of these issues in the future.

Appendix A

Definitions

DEFINITIONS

DEFINITIONS SPECIFIC TO THIS EVALUATION

Circuit: In this evaluation, the term “Circuit” refers to one of the 24 Judicial Circuits in Illinois. Some of those circuits are made up of multiple counties and others are single-county circuits. All the foreclosure mediation programs in this evaluation serve particular counties in their circuit, with the exception of the 1st Circuit program, which served all the counties in the circuit. The counties the other programs serve are designated in the evaluation.

Foreclosure: This evaluation uses the term “foreclosure” as it is used in the vernacular, to refer to both the process of foreclosing on a home by a foreclosure action that is filed in court as well as the final act of a lender obtaining ownership of a home as the result of a court granting foreclosure.

Foreclosure avoidance: After a foreclosure lawsuit is initiated, the options are that the foreclosure process will continue, resulting in foreclosure judgement and sale, or the lender and the homeowners may agree to some foreclosure alternative. Alternatives where the homeowners retain possession of their home are known as retention agreements. Alternatives where the homeowners vacate the property are known as relinquishment options.

Homeowners: The term “homeowners” is used in this evaluation – instead of other terms such for those who have borrowed via a mortgage, such as borrowers, debtors or mortgagors – because the programs studied specifically work with those who borrow money to purchase a home.

A further distinction is drawn between the use of the term “*the* homeowners” and “homeowners.” “*The* homeowners” refers to the person or people who have taken out a mortgage to own a single home. For example, “The homeowners decided to work through a foreclosure mediation program to try to keep their home.” Likewise, “homeowners” is used as the plural of “the homeowners.” For example, “Homeowners attend housing counseling sessions before meeting with lenders.” While this system may create moments of grammatical confusion, it is intended to differentiate between the owner(s) of a particular home who are defendants in a case concerning that home as compared to a group of people who all own homes. Thus, when discussing data, such as “homeowners entering the program,” the evaluation is not quantifying individual people who own homes, but rather, homes.

Lenders: The term “lenders” is used in this evaluation to refer to the various creditor entities that may be involved in foreclosure mediation, such as banks and servicers.

FORECLOSURE TERMS

Document exchange: The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and their lender’s review of that packet. During that time, their lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become “stale” and updated versions must be submitted.

Graceful Exit/Relinquishment: With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home. Options include

Cash for Keys: With a cash for keys program, the lender offer the homeowners cash to vacate the property quickly, leaving the property in good condition. This cash can assist the homeowners with expenses such as moving costs and security deposits in rented homes.

Consent Foreclosure: The lender and the homeowners may agree to a consent foreclosure, where the homeowners will have no right of redemption and the lender agrees not to file for a deficiency judgment.

Deed in lieu: With a deed in lieu of foreclosure, the lender lets the homeowners give the title to the property back, transferring ownership back to the lender. A lender will not accept a deed in lieu of foreclosure if there are any other liens on the property. The lender may require that the homeowners try to sell the property for 90 days first before approving a deed in lieu. One benefit of deed in lieu is that the lender may agree to waive the deficiency judgement, releasing the homeowners of liability under the mortgage.

Short Sale: In a short sale, the lender agrees to let the homeowners sell the property to a new buyer for an amount less than what the homeowners currently owes the lender.

HAMP (Home Affordable Modification Program): A federal government program that helped homeowners obtain loan modifications from participating lenders. Most large lenders participated; a “HAMP review” was their first step in considering a loan modification. HAMP ended in 2016.

HHF (Hardest Hit Fund): A state-administered federal program that provides mortgage assistance to homeowners who have experienced at least a 15% reduction in income due to a hardship event and who meet the eligibility criteria. The assistance is meant to allow those eligible for the program to avoid foreclosure while they work to regain financial stability.

Loan modification packet: In order to be considered for a retention option, the homeowners must submit a Request for Mortgage Assistance (RMA) Application. The RMA Application allows the lender to evaluate the homeowners for foreclosure prevention alternatives. The RMA Application requires detailed information, including borrower details, property details, income worksheets, a hardship affidavit and tax forms.

Retention: An alternative to foreclosure that allows the homeowners to retain possession of the home. Options include:

Forbearance: A forbearance reduces or suspends mortgage payments for a period of time. Therefore, a forbearance can be helpful to homeowners experiencing a temporary hardship. At the end of the forbearance period, the homeowners must bring the loan current.²⁷

²⁷ NOLO, Legal Encyclopedia, <http://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html>

Modification: Those Homeowners who wish to remain in their home can ask to be evaluated for a loan modification. Their lender will run a net present value test, which measures the benefit to the investor of a loan modification, part of which is the homeowners' ability to pay a new loan amount.²⁸ Loans are modified based on a "waterfall analysis," meaning that their lender will evaluate a series of changes to the loan (capitalizing arrearages, reducing interest rate, extending amortization term, forbearing principal and/or reducing payment) to see if the homeowners' payment can be made affordable.²⁹

Redemption: Redemption is when the homeowners pay off the whole loan. In Illinois, the right to redeem, or to pay the balance of the mortgage and fees, expires seven months after service of summons or three months after judgment, whichever comes later.³⁰

Reinstatement: Reinstatement is when homeowners catch up on all missed payments and fees. Reinstatement ends the foreclosure suit so that the homeowners are up-to-date on the mortgage.³¹ Homeowners can only reinstate once every five years.³²

Temporary loan modification: If the homeowners are approved for a modification, they must first complete a three-month trial payment plan (TPP). It is not necessary for the homeowners to sign the trial modification agreement; they just have to start making timely payments to accept it.³³ During the TPP, the amount the homeowners owe their lender continues to accrue. Payments are held in a suspense account until the amount of a full payment under the mortgage note is reached, which is when the payments are applied. After three payments, the TPP should be converted into a permanent modification. Conversion to permanent modification can sometimes be stalled, which the homeowners should not be penalized for. After the permanent modification is in place, arrearages are capitalized and interest will start to accrue at the reduced rate.³⁴ In the case of a proprietary modification not under a government program, the lender may still require a trial period.

FORECLOSURE PROGRAM TYPES

Hybrid: This term is used to describe the 16th Circuit program. In this program, homeowners receive a notice of mediation that says they must contact the program coordinator in order to participate, but they also must file an appearance. Thus, it is a hybrid of the one-step entry and multi-step entry models.

²⁸ National Consumer Law Center, training material slides on file with Resolution Systems Institute.

²⁹ Id.

³⁰ Id.

³¹ Illinois Legal Aid Online,

http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

³² Id.

³³ National Consumer Law Center.

³⁴ National Consumer Law Center.

Multi-step entry: The term “multi-step entry” is used in this study to describe a program in which the homeowners receive a notice of mediation with their summons that tells them they have the opportunity to participate in the mediation program. They then must complete two or more steps to participate. The 17th Circuit, 19th Circuit and 20th Circuit programs use this model.

One-step entry: The term “one-step entry” is used in this study to describe a program in which the homeowners receive a summons that includes the date and time that must appear for their first pre-mediation session. When the homeowners appear for the session, they are considered to have entered the program, thus only needing one step to enter. The 6th Circuit and 21st Circuit programs have this type of program.

GENERAL COURT TERMS

Complaint: “A written statement by the plaintiff that starts a lawsuit. It says what the plaintiff thinks the defendant did and asks the court for help.”³⁵ In the foreclosure context in Illinois, the complaint form must comply with 735 ILCS 5/15-1504.³⁶ The mortgage and current copy of the note should be attached. The plaintiff should identify the “capacity” in which it brings the suit, such as owner or agent.³⁷ The complaint should also specify the current unpaid balance and per diem interest. Under 12 C.F.R. § 1024.41, the foreclosure complaint cannot be filed until the borrower is 120 days late.³⁸

Default: Default is defined by mortgage documents, but usually means a missed mortgage payment. Default could also result from a lack of insurance, sale of property, failure to make required repairs, etc.³⁹

Filing an Answer: An answer is the defendant’s response to the foreclosure complaint. The homeowners/defendant has 30 days from service to file the appearance and answer.⁴⁰ Under 735 ILCS 5/15-15-4(h), homeowners can answer or file a counterclaim.⁴¹ If the defendant does not file an answer, the court will proceed with the foreclosure.

Filing an Appearance: By filing an appearance, the homeowners acknowledge the lawsuit, but makes no claim that they agree with the lender’s suit. Having an appearance on file means the homeowners will be notified of all future court dates. There is a fee to file an appearance, but fee waivers may be available.⁴²

³⁵ Illinois Legal Aid Online,
http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ National Consumer Law Center.

⁴⁰ Illinois Legal Aid Online.

⁴¹ National Consumer Law Center.

⁴² Illinois Legal Aid Online.

Service of Process: Service is the delivery of “legal papers to the opposing party in a case.”⁴³ Service gives the defendant notice of the legal action and is carried out by the sheriff or process server. If personal service is not possible, a notice will be put in the local newspaper and the homeowners will be considered served by publication. Most program deadlines start from when service is made upon the homeowners.

Summons: “A notice to a defendant that a lawsuit against him or her was filed in a court and that the defendant has to appear in court.”⁴⁴ In the foreclosure context, the summons must include a Homeowner Notice (735 Illinois Compiled Statutes 5/15-1504.5). This notice explains the homeowners’ rights in terms of possession, ownership, redemption and surplus, among other things. For jurisdictions with foreclosure mediation, a notice of foreclosure mediation is attached to the summons and complaint.

⁴³ Id.

⁴⁴ Id.

Appendix B

Methodology

EVALUATION METHODOLOGY

This evaluation is the second funded by the Office of the Illinois Attorney General. It is the final evaluation for the programs, and is meant to provide insight not only into how well each program performed while under the grant, but to determine whether particular aspects of the programs and factors external to them had an effect on participation and program outcomes.

EVALUATION PERIOD

The evaluation period for this study begins with the launch of each program and ends with cases that were filed by December 31, 2017. It only includes outcomes for cases that were closed by that date. This means that there were four years of data for the 16th Circuit, 19th Circuit, 20th Circuit and 21st Circuit programs, more than three years for the 6th Circuit (Champaign) and 17th Circuit programs, and less than two years for the 1st Circuit and 6th Circuit (Macon County) programs.

DATA COLLECTION TOOLS

Online Case Management and Monitoring System

One key to this evaluation was the creation and use of uniform data fields across eight programs using seven models. The [evaluator](#) worked with program coordinators, court personnel and housing counselors to customize a commercially-available online case management system to fit the foreclosure mediation programs' case management and data collection needs. The system was designed so that almost all data were collected automatically and did not require program staff to spend time entering data needed for the evaluation. For example, participant surveys were all scannable.

This system was used by seven of the eight programs in the study. In the 21st Circuit program, the mediation provider, Foreclosure Mediation Specialists, wanted to keep its data collection uniform with the other programs it was administering and declined to use the online system. The program administrator did, however, provide data the evaluator could adapt to work with the information the other programs were collecting.

Before each program launched, as well as during the evaluation period, the evaluator continued to work with each program to further customize fields to fit both their case management needs and the evaluator's need for a uniform set of definitions for each data collection field. The customized online system enabled the seven participating programs to collect the same data so that they could be assessed on the same criteria, allowing an apples-to-apples comparison.

The data collected from the online system included homeowner demographics, dates between each milestone to determine how long it was taking for cases to get through each phase of the process; the point at which each case left the program; and case outcomes, the reason the homeowners defaulted on their loan, and the owner of their loan.

The programs differed in the data they collected. The 1st Circuit and 20th Circuit programs were the most comprehensive, collecting data for all the topics included in the study. The 16th Circuit, 17th Circuit and 19th Circuit programs collected data on almost all the topics, while the other three programs were the least comprehensive in what they collected.

VARIABLE	PROGRAMS THAT COLLECTED DATA
Attorney representation	1 st , 6 th (Champaign and Macon), 16 th , 17 th , 19 th , 20 th
Housing counselor assistance	6 th (Champaign and Macon), 17 th , 19 th , 20 th
Demographics	1 st , 16 th , 17 th , 19 th , 20 th
Reason for default	1 st , 16 th , 17 th , 20 th
Owner of the loan	17 th , 19 th , 20 th (16 th collected minimal information)
Pre-mediation surveys	1 st , 17 th , 19 th , 20 th (6 th (Champaign) and 21 st collected minimal information)
Mediation surveys	16 th , 17 th , 19 th (1 st and 20 th collected them for the rare mediations conducted)

Post-Session Reports

The online system included online reports to be completed by the person charged with conducting the sessions. The reports collected data on whether or not the session was held, the reason it was not held, and what the result of the session was, if it was held. If it was the concluding session, the final outcome was recorded, as well. Finally, the reports included the amount of time spent in the session and whether the parties complied with the court rules.

These reports were completed after each session. In the 17th Circuit and 19th Circuit programs, the pre-mediation session report was completed by the housing counselor. In the 6th Circuit and 20th Circuit programs, the outcomes were entered by the program coordinator. The reports were not completed in the 16th Circuit nor 21st Circuit programs. The mediation session reports were completed by the mediators in the 1st Circuit, 16th Circuit, 17th Circuit, 19th Circuit and 20th Circuit programs.

Post-Session Surveys

Participant surveys were created in a paper-and-pencil format for pre-mediation and mediation sessions. For the 1st Circuit program, an intake session survey was developed, and for the 19th Circuit program, a survey was created for its group informational session as well. The surveys were designed as optical mark recognition forms that allowed them to be scanned into software that automatically read the participants' responses into the database.

Informational Session Surveys

Surveys for the group informational session in the 19th Circuit program examined whether the goals of the session were met and provided an opportunity for the homeowners to rate the presenter. They also collected the same demographic data as is collected in the online case management and data collection system. The surveys were passed out to homeowners at the end of the sessions. They were available in English and Spanish.

Initial Intake Conference Surveys

This survey was completed after the initial intake conferences in the 1st Circuit and 20th Circuit programs. It asked the homeowners how much they learned about their options and whether they understood how to complete their loan modification packet. It also asked how they were treated and how satisfied they were with their experience. The program coordinator stepped away while the homeowners completed their surveys.

Pre-Mediation Session Surveys

The survey completed after pre-mediation sessions in all programs asked the homeowners about how much they learned about their options and how to work with their lender, how they were treated, and their overall satisfaction. The survey was available in English and Spanish.

Programs had different practices for distributing the surveys:

- In the 17th Circuit and 19th Circuit programs, the housing counselor handed each of the homeowners the survey after their last session. The homeowners completed the surveys after their housing counselor stepped away.
- In the 6th Circuit and 21st Circuit programs, the program coordinator asked the homeowners to complete the surveys after their first pre-mediation session. The homeowners had already left their session and were, therefore, no longer in the same room as the person with whom they met for their session.
- In the 1st Circuit and 20th Circuit programs, the program coordinator asked the homeowners to complete the surveys after their final pre-mediation session. This meant that they completed it after they completed the program and had negotiated with their lender, in most cases. The program coordinator stepped away while the homeowners completed the surveys.

Mediation Session Surveys

Parties and attorneys completed separate mediation session surveys. The surveys were adapted from the model forms developed by a joint project of Resolution Systems Institute (RSI) and the American Bar Association Section of Dispute Resolution. These forms were the product of a national committee of researchers and program administrators and had been tested in two mediation programs prior to their use for the Illinois foreclosure mediation programs.

The surveys examined procedural justice factors, mediator coercion and helpfulness, fairness, and satisfaction. The survey for attorneys also asked whether they would use their mediators again. The party survey was available in English and Spanish.

The participants were asked to complete the post-session survey at the end of each session.⁴⁵ The mediator asked the participants to complete their surveys, and then left the room. Because representatives for the lender participated by phone, lender attorneys read them the questions and filled out the surveys for them. For the evaluation, only the last survey completed by each participant was used to calculate aggregate responses.

⁴⁵ The surveys were not used in the 6th Circuit (Champaign), 6th Circuit (Macon) and 21st Circuit programs.

Interviews

In 2015, the evaluator interviewed all program coordinators, as well as a judge in each of the programs, except the 1st Circuit, 6th Circuit (Champaign), 6th Circuit (Macon) and 21st Circuit programs. She also interviewed others involved in the programs, if they were extensively involved in a program's administration. This included the housing counselor in the 17th Circuit program and a mediator who managed the cases and conducted half of the sessions in the 21st Circuit program. Two lender attorneys were also interviewed. All interviews were semi-structured and conducted over the phone. For all but the program coordinators, the interviews lasted 20 to 30 minutes. The program coordinator interviews took about two hours each.

In 2015, the evaluator again interviewed the program coordinators for all the programs, with the exception of the 21st Circuit program. The purpose of those interviews was to learn about any changes to the programs and how any challenges that had been identified in the 2015 interviews had been addressed. The program administrator for the 21st Circuit program answered these questions via email. The interviews lasted 30 – 45 minutes.

LIMITATIONS OF THE STUDY

In setting up the online system for data collection purposes, the evaluator aimed to have uniform data and uniform definitions of what each field represented. However, the programs, at times, developed their own uses for some of those fields and definitions that did not coincide exactly with the other programs. In order to make the data more uniform, the evaluator redefined the fields when analyzing the data; however, there may be some skewing of the data because of the differences in how the data was collected.

Additionally, program coordinators in different programs appear to have defined the same outcomes differently. For example, in the 1st Circuit and 20th Circuit programs, if the homeowners did not appear for a third pre-mediation session, they were considered to have been able to discuss their options with their lender, and the outcome was entered as a no agreement. In contrast, in the 19th Circuit program, if the homeowners didn't appear for a second mediation session, the outcome was entered as "program not completed", because the case was returned to court due to homeowner non-compliance. These differences skewed the comparisons of completion rates between programs.

Statistical analysis was also limited by the inconsistent collection of data among the programs. Not all programs collected demographic data, not all programs collected information on the reason for default, and not all programs collected information on the owner of the loan, among other variables. Further, those programs that did collect that data weren't able to collect it for every case. Therefore, analysis of factors that affect participation and outcomes was limited in both what factors could be analyzed and the strength of the conclusions that could be drawn from the analysis conducted.

The evaluation was conducted by an employee of RSI. Her status as an employee of RSI may have led to an unconscious bias when evaluating the programs administered by RSI, although she guarded against it.

Appendix C

Evaluation Instruments

**Illinois Foreclosure Mediation Program
HOUSING COUNSELING SESSION SURVEY**

To help us to maintain the quality of the housing counseling program, please answer all of the questions below. Your responses will be kept confidential and will be used to improve our services. No identifying information about you will be released.

Date:


The following questions ask about your experience with the pre-mediation counseling session. Please fill in one circle for each question.

Answer Selection: Correct = ● Incorrect = ✕ ✓ ⊖

	Not at all	Somewhat	Very much
1. Did the counselor treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Did the counselor treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Do you understand how to work with your lender better than you did before the session?			
<input type="radio"/> No, I still don't understand.			
<input type="radio"/> No, because I understood before the session.			
<input type="radio"/> Yes, somewhat better.			
<input type="radio"/> Yes, very much better.			
4. Do you <u>understand the options</u> you have regarding your home better than you did before the session?			
<input type="radio"/> No, I still don't understand my options.			
<input type="radio"/> No, because I understood my options before the session.			
<input type="radio"/> Yes, somewhat better.			
<input type="radio"/> Yes, very much better.			
4. How satisfied are you with your <u>overall experience</u> with the counseling session(s)?			
<input type="radio"/> Very unsatisfied			
<input type="radio"/> Unsatisfied			
<input type="radio"/> Satisfied			
<input type="radio"/> Very satisfied			
5. Please let us know what you <u>liked</u> about the session(s):			
6. Please let us know what you <u>didn't like</u> about the session(s):			

FORECLOSURE MEDIATION PRE-MEDIATION SESSION REPORT

Please fill out this form after your pre-mediation session.

Final Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
Type of Service	<input type="checkbox"/> Facilitated Bi-Lateral Session <input type="checkbox"/> Housing Counseling Session <input type="checkbox"/> Pre-Mediation Session <input type="checkbox"/> Legal Services (Required)
Was the session held?	<input type="checkbox"/> Yes, Service Completed (R) <input type="checkbox"/> Yes, Service Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Session Rescheduled
Session Date	<input type="text"/> mm/dd/yy 
Time Spent in Session (hours; can be in portions: 1.25 etc)	<input type="text"/>
Final Session Result	<input type="checkbox"/> Referred to mediation <input type="checkbox"/> Referred to other service <input type="checkbox"/> Accepted homeowner as client (legal services only) <input type="checkbox"/> Return to court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement <input type="checkbox"/> Other (indicate below)
Reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason case rescheduled or continued (check all that)	<input type="checkbox"/> Servicer required new packet

FORECLOSURE MEDIATION PRE-MEDIATION SESSION REPORT

apply)	<input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner did not provide sufficient documents <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If "other" above, reason rescheduled/continued	<input type="text"/>
Which service was homeowner referred to?	<input type="checkbox"/> Land of Lincoln Legal Services <input type="checkbox"/> Prairie State Legal Services <input type="checkbox"/> Bankruptcy attorney <input type="checkbox"/> Credit/debt management agency <input type="checkbox"/> Social services agency (select below) <input type="checkbox"/> Other (indicate below)
If "particular agency" above, which one?	
If "other" above, which other service was the homeowner referred to?	<input type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement

**FORECLOSURE MEDIATION
PRE-MEDIATION SESSION REPORT**

	<input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short sale <input type="checkbox"/> Deed in Lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not, who didn't comply? (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner



**FORECLOSURE MEDIATION
EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ☒ ☑ ☐

1. What is your role in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about **none** 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 **most** of the issues and concerns that were most important to me.
- ☐ I was able to talk about **all** of the issues and concerns that were most important to me.

3. Was the mediator active enough in helping you to work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
--	------------	----------	-----------

4. How much did the mediator understand what was important to your side?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

5. Did the mediator treat you with respect?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

6. Did the mediator treat you fairly?

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-----------------------	-----------------------	-----------------------

7. Did the mediator push too hard to get you to settle?

- ☐ No
- ☐ Yes



8. To the best of your knowledge, were any of the following true at the time of the mediation? Please fill in the circle for all that apply

- A. ☐ Some information that would have been helpful in the settlement discussions was not available at the mediation.
- B. ☐ When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be.
- C. ☐ The time we had to mediate was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was anger/hostility between the other party and me.
- F. ☐ There was a large power imbalance between the other party and me.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. Overall, was the mediation process fair?

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

Please let us know more about your experience:

12. Please let us know what you liked about the mediation:

13. Please let us know what you didn't like about the mediation:



ILLINOIS FORECLOSURE MEDIATION PROGRAM
EVALUATION FOR ATTORNEYS

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ✗ ✓ ⊖

1. Which party did you represent in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Was your side able to talk about the issues and concerns that were most important to you?

- ☐ We were able to talk about none of the issues and concerns that were most important to us.
- ☐ We were able to talk about some of the issues and concerns that were most important to us.
- ☐ We were able to talk about most of the issues and concerns that were most important to us.
- ☐ We were able to talk about all of the issues and concerns that were most important to us.

3. Was the mediator active enough in helping the parties work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
4. How much did the mediator understand what was important to your side?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did the mediator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Did the mediator treat your side fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Did the mediator push too hard to get your side to settle?

- ☐ Yes, the mediator pushed too hard
- ☐ No, the mediator did not push too hard



8. To the best of your knowledge, which of the following were true at the time of the mediation?

Please fill in the circle for all that apply

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ The case required a mediator with a different skill set.
- E. ☐ One or more participants did not have authority to settle.
- F. ☐ There was a high level of anger/hostility in the relationship between the parties.
- G. ☐ There was a large power imbalance between the parties.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. Overall, was the mediation process fair?

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

12. If given the choice, would you use this mediator again?

- ☐ Yes
- ☐ No
- ☐ Possibly

Why or why not?

13. How many mediations have you participated in prior to this mediation?

- | | |
|-----------------------------|-------------------------------------|
| <input type="radio"/> None | <input type="radio"/> 26-50 |
| <input type="radio"/> 1-10 | <input type="radio"/> 51-100 |
| <input type="radio"/> 11-25 | <input type="radio"/> More than 100 |



14. What, if anything, made the mediation effective?

15. What could have improved the mediation?



ILLINOIS FORECLOSURE MEDIATION PROGRAM EVALUATION FOR MEDIATORS

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Case Number:

Date:

1. To the best of your knowledge, which of the following were true at the time of the mediation?

Please fill in the circle for all that apply

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was a high level of anger/hostility in the relationship between the parties.
- F. ☐ There was a large power imbalance between the parties.

2. Please indicate the number of people who attended any of the mediation sessions either in person or by phone (not including people a party may have contacted outside your presence):

Fill in the circle for each type

	0	1	2	3	4	5	6+	N/A
Homeowners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lender/servicer representatives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorneys for homeowners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorneys for lender/servicer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Others (e.g. witness, experts, support person for a party)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. Approximately what percent of time in the mediation (totaling 100%) was spent in (write percent, then fill in the corresponding circles):


Joint session: _____

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
☐

Caucus: _____

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
☐

FORECLOSURE MEDIATION PROGRAM MEDIATOR REPORT

Final Report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was mediation held?	<input type="checkbox"/> Yes, Mediation Completed <input type="checkbox"/> Yes, Mediation Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Mediation Rescheduled
If not held, reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason mediation rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner didn't provide sufficient documentation <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If other reason rescheduled or continued, describe	<input type="text"/>
Date of mediation session	<input type="text"/> mm/dd/yy 
Time spent in mediation session (in fractions of hours - e.g., 1.25)	<input type="text"/>
Time spent on case outside of mediation session	<input type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment

FORECLOSURE MEDIATION PROGRAM MEDIATOR REPORT

	<input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short Sale <input type="checkbox"/> Deed in lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent Judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, who didn't comply (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

ABOUT THE AUTHOR

Jennifer Shack has been Director of Research at Resolution Systems Institute since 2000. In this role, she conducts complex evaluations of court-based mediation programs and researches the effectiveness of mediation in court settings. As part of RSI's efforts to help courts to monitor the functioning of their mediation programs, she has designed data collection systems that are in use around Illinois. This includes the cloud-based case management and monitoring system used by the Attorney General-funded foreclosure mediation programs.

Nationally, Ms. Shack has led a committee to develop model evaluation forms for civil case mediation programs and serves on the American Bar Association Section of Dispute Resolution Research Task Force. Over the past decade, she has presented on program monitoring and evaluation at numerous conferences.

Ms. Shack's evaluations include comprehensive evaluations of the Child Protection Mediation Programs in Cook County, Illinois, and Washington, DC, as well as evaluations of the mediation programs in the U.S. District Court for the Northern District of Illinois. Ms. Shack has also written a number of articles, including "Mediation in Courts Can Bring Gains, But Under What Conditions?" in *Dispute Resolution Magazine*, Winter 2004, and the co-authored, "Judicial Settlement Databases: Development and Uses," *Judges' Journal*, Winter 2004. Most recently, she co-authored two articles on foreclosure mediation: "Foreclosure Dispute Resolution Programs: Do They Work?" in *Probate and Property*, December 2013, and "A (Mortgage) Crisis in Communication: Foreclosure Dispute Resolution as Effective Response?" in *Arkansas Law Review*, Spring 2013. Ms. Shack also discusses issues related to research on issues related to court ADR on RSI's blog, *Just Court ADR*.

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Jennifer Shack

RESOLUTION SYSTEMS INSTITUTE

Formed in 1995, Chicago-based Resolution Systems Institute is a non-profit organization whose mission is to strengthen access to justice by enhancing court alternative dispute resolution systems through expertise in program development, research, resources, program administration and training.

Founded on the premise that collecting and disseminating reliable information about court ADR can raise the quality of court ADR, RSI has assisted state and federal courts with the design, administration, monitoring, and evaluation of mediation programs, as well as training ADR neutrals. Courts and individuals across the country call on RSI for advice and make use of RSI's [Court ADR Resource Center](#).

With a multi-year grant from the Office of Illinois Attorney General Lisa M. Madigan, RSI has fully implemented the advice we have offered for two decades: Seek stakeholder input. Set goals. Design clear systems. Train skilled neutrals. Collect uniform data. Share information with stakeholders. Assess programs with an expert eye. Never stop working to improve court ADR programs.

For more information about RSI, see [AboutRSI.org](#).