



January 2010

The Court ADR News section this month reports updates on the statewide foreclosure mediation programs in Delaware and Nevada. The former received only five requests for mediation in its first three months; in contrast, the latter doubled its mediator roster this month to keep up with increasing demand for mediation.

This edition features two research items. New Research highlights a review of the Denver Court-Annexed Mediation Program, partially using criteria outlined in [“Elements of a Successful Court-Mediation Program”](#) on CourtADR.org to assess the program’s success. The Research You Might Have Missed section describes a study on the effectiveness of a victim-offender mediation program in New York. While the study was done in the 1970s, it was not published and has relevance today as possibly the only study of victim-offender mediation to use random case assignment to compare outcomes to case proceedings in court.

---

In this issue...

## Court ADR News

- » [Delaware Foreclosure Mediation Program Off to Slow Start](#)
- » [Nevada Doubles Mediator Roster for Foreclosure Program](#)

## New Research

- » [Denver Court-Annexed Mediation Program: Resource Enhancements and Options for Continued Success](#)

## Research You Might Have Missed

- » [The Brooklyn Mediation Field Test](#)

---

## Court ADR News

### Delaware Foreclosure Mediation Program Off to Slow Start

Only five homeowners have participated in Delaware’s statewide foreclosure mediation program since its launch in September. According to *The News Journal*, approximately 1,500 foreclosures went through the courts during that same time. Program administrators at the Delaware State Housing Authority attribute the small number of mediations to homeowners’ lack of knowledge about the program. Information about the program is included in each foreclosure notification, but efforts are now being made to go door-to-door to educate homeowners about the option to mediate. Administrators are also working to amend the state law that creates the program to give homeowners more time to request mediation. Right now, homeowners only have 15 days after receiving their foreclosure notice to request mediation.

Click [here](#) to read the full article from *The News Journal*. For more information about the state's foreclosure mediation program, visit the Delaware State Housing Authority's [web site](#).



## Nevada Doubles Mediator Roster for Foreclosure Program

The Nevada Supreme Court appointed 75 newly trained mediators to serve on the roster for its statewide foreclosure mediation program this month, nearly doubling the number to a total of 170. Program administrators said the extra influx of mediators will help in processing the large number of mediation requests the program has received since it launched in July. Ten percent of the 32,662 homeowners who received notices of default between July 1 and December 4 requested mediation. During that time, 522 mediations were held, and 1,064 were scheduled. Nevada has the highest foreclosure rate in the country.

Click [here](#) for more information about the program.

---

## New Research

### Denver Court-Annexed Mediation Program: Resource Enhancements and Options for Continued Success

In light of the current economic pressures on the Court-Annexed Mediation Program, which provides services to county and small claims courts in Denver, Dawn Prime Watson set out to research options to ensure the continued success of the program. In [“Court-Annexed Mediation Program \(CAMP\): Resource Enhancements and Options for Continued Success,”](#) she relies on determinants of success – as outlined by Daniel McGillis in “Community Mediation Programs: Developments and Challenges,” and RSI Executive Director [Susan M. Yates](#) in [“Elements of a Successful Court-Mediation Program”](#) – to explore five successful programs in Colorado and other states, and to find possible strengths and weaknesses of CAMP.

Watson combines the criteria put forward by McGillis and Yates to come up with a list that includes: defined program goals; clarity of the role of the court in providing ADR services; understanding of the dynamics between the legal and mediation environments; involvement of members of the bench and bar who are knowledgeable about mediation and their role in the program; trained skillful mediators who are knowledgeable about mediation; active support from and partnership with stakeholders; sustainable funding; and collaboration with colleagues regarding their challenges and models for success. She finds that the five successful programs meet all the criteria, but that CAMP could benefit from incorporating the final three.

---

## Research You Might Have Missed

### The Brooklyn Mediation Field Test

In the late 1970s, when victim-offender mediation was in its infancy, an unpublished study of its efficacy was undertaken in Kings County, New York. As it may be the only study to use random assignment to compare outcomes to cases proceeding to court, it was brought to light this past year by Robert C. Davis in [“The Brooklyn mediation field test,”](#) (*Journal of Experimental Criminology*,

Volume 5, No 1, March 2009). The study was of 465 cases involving adult felony arrests for crimes between acquaintances. Almost half of the cases involved intimate partner violence, which has significance for the current debate about the risks of mediating family cases involving domestic violence.

The District Attorney assigned defendants to the mediation track if they met the appropriate criteria. If complainants agreed to mediate, the case remained in the mediation track. If not, it was returned to court. Those placed in the track were then randomly assigned to mediation (mediation group) or placed in the court track upon being told that there was not enough room for their case to be placed in mediation (court group).

A substantial number of complainants in both the mediation and the court group did not participate in the process. Those whose cases were not mediated returned to court for adjudication. Since the study was examining the policy of using mediation for these cases rather than mediation itself, all cases were analyzed in the study based upon the group in which they were placed, regardless of whether the complainant participated or the case returned to court. The mediation group, therefore, consisted of all cases randomly assigned to mediation regardless of whether the case was returned to court without being mediated. In 19% of the cases the complainant didn't show up and in an additional 12% neither side showed up. Similarly, in 19% of the court group cases, the complainant did not participate.

Complainants in both the mediation and court groups were interviewed three times regardless of whether they participated in the process – in the complaint room prior to mediation or trial, just after adjudication, and four months later. At the time of the last interview, records were checked to determine whether either party had been arrested for a crime against the other in the past four months.

The study found that 94% of complainants whose cases had been mediated felt the mediator had heard their version of the incident, while only 65% of complainants who attended court felt that way about the judge. Similar results were found regarding the fairness of the process and complainants' satisfaction with the resolution of the case. Complainants in the mediation group were less likely to report being angry toward or fearful of the defendant, and were more likely to report an improvement in the defendants' behavior toward them. Despite all this, there was no evidence of a reduction in recidivism as measured by the frequency of new problems reported by the complainants, number of calls by the complainants to ask for police intervention, and new arrests of either party for crimes against the other.

One surprising finding was that recidivism was lower for both the mediation and court groups in cases in which the complainant did not participate in the process. This was found to be due in large part to whether there was continued interaction between the complainant and defendant. Parties to cases in which the complainant participated tended to have strong interpersonal ties that bound them together after adjudication. Recidivism, it was found, was correlated with whether the complainants reduced contact with the defendants. Although there was no evidence of reduced recidivism in the mediation group, there was also no evidence that mediation made victims less safe.

---

**Resolution Systems Institute**

11 E Adams Street · Ste 500 · Chicago, IL 60603

P 312.922.6475 · F 312.922.6463

[visit us online](#) | [send us an email](#)



[Subscribe](#) | [Forward](#) | [Unsubscribe](#)