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RESEARCH REPORT  
ASSESSING MEDIATION IN CLARK COUNTY,  
NEVADA



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### Clark County Mediation

In early 2013, the Eighth Judicial District of Nevada (Clark County) began implementation of a mediation program for parents and stakeholders who are in the midst of the juvenile dependency system. The goal of mediation is to avoid further litigation through voluntary case resolution, which can enhance case processing and improve outcomes in juvenile dependency cases. Parties can come together in a neutral setting to address the issues surrounding the case and what options are available given the status of the case, through the assistance of an impartial third-party.

The Nevada Administrative Office of the Courts (AOC) contracted the National Council of Juvenile and Family Court Judges (NCJFCJ) to assess the juvenile dependency mediation program. The assessment includes review of satisfaction surveys given to parents and stakeholders at the end of mediation and surveys and interviews with key system stakeholders. Surveys and interviews were analyzed to examine common themes, level of satisfaction with the current mediation practice, and areas of improvements.

*Key findings from the surveys and interviews included:*

- *There is a general perception that mediation is successful;*
- *The program is still fairly new and working out issues as they come, keeping the process fluid; and*
- *Mediation provides an environment where parents felt heard, respected, and treated fairly during the process.*

*Areas of improvement included:*

- *Increasing stakeholder buy-in through education about the results that are seen through mediation in terms of time-savings;*
- *Exploring the idea of limiting how many parties are attending mediation sessions and limiting it to only necessary parties.*

The study was somewhat limited by the low number of survey respondents for the stakeholders and number of total mediations that have occurred to date. With low numbers, it is difficult to assess overall satisfaction with the program, as this report is limited to the views of those who participated in the survey and phone interviews. In addition to those limitations, outcomes were not determined in Clark County. Without this piece, it is difficult to determine the long-term outcomes of mediated cases or whether mediation results in timelier case processing. However, the current evaluation is the first step in this process. An outcome evaluation is planned for a future date, at a time in which the number of mediated cases is large enough to make adequate comparisons to non-mediated cases.

## Introduction

When a child is removed from a home by child protective services (CPS), this child has entered the child abuse and neglect court system where an adversarial relationship between parents and CPS may develop. Distrust and confusion about the system can arise for parents in a time when there is a need for collaboration and resolution. Mediation is an option to avoid further litigation, which has been used for decades to catalyze case processing and improve outcomes in juvenile dependency cases.<sup>1</sup> This alternative dispute resolution practice is a method that brings together all concerned parties to negotiate and resolve issues with the assistance of a neutral third party (mediator). The main objective of mediation is to facilitate a discussion where parties voluntarily resolve the issues that brought a family into the dependency system and produce a written agreement, in lieu of a traumatic contested hearing.<sup>2</sup> The mediation can include parents, CPS, attorneys, and all others that may be involved in the case (i.e. guardian ad litem, Court Appointed Special Advocates (CASA), foster parents, other family members, etc.).

The topics discussed depend largely on what issues are contested. If the mediation occurs pre-adjudication, topics may include petition allegations. Other contested issues that often arise and are discussed at mediation may include: case planning, custody, visitation, shared parental responsibility, temporary and long-term placement, foster care, relative placement, non-relative placement, shelter care, family dynamics, parent education, available services to families, family reunification, termination of parental rights, and/or adoption.<sup>3</sup> Mediation should focus on the family's strengths, create an environment where parents are incorporated in decision making about their children, and prevent any further abuse or neglect for the child.<sup>2</sup> There are several potential benefits to mediation in child dependency cases which can include, but are not limited to: time savings, efficiency, parent engagement, and improved outcomes for children involved.

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<sup>1</sup> Giovannucci, M., & Largent, K. (2009). A guide to effective child protection mediation: Lessons from 25 years of practice. *Family Court Review*, 47, 38-52.

<sup>2</sup> Superior Court of California, County of Alameda. (n.d.). *Dependency mediation*. Retrieved from: <http://www.alameda.courts.ca.gov/Resources/Documents/Dependency%20Mediation.pdf>

<sup>3</sup> Eighth Judicial Circuit of Florida. (2013). *Frequently asked questions: Juvenile dependency*. Retrieved from: <http://circuit8.org/mediation/dependency-mediation>

## *Program Background*

In October of 2012, the Eighth Judicial District of Nevada (Clark County) established the Dependency Mediation Program (DMP). DMP is funded by the Court Improvement Program (CIP), a U.S. Department of Health and Human Services program designed to support court initiatives related to improving outcomes for maltreated children involved in the child abuse and neglect court system.<sup>4</sup> To secure the funding, the lead juvenile dependency judge in Clark County worked with the state CIP Coordinator to identify mediation as a goal for the jurisdiction and apply for grant funds. Three mediators with years of experience mediating a variety of issues were recruited for the program, and a contracted mediator of the Eighth Judicial District administers the program.

As part of the implementation process, systems stakeholders began convening monthly meetings to discuss and develop the program's goals, vision, protocols, and next steps. These discussions involved many key stakeholders, including: the lead juvenile dependency judge in Clark County; Department of Family Services personnel (staff, managers, and supervisor); the District Attorney; the Special Public Defender; Children's Attorney Project (CAP) attorneys; court appointed special advocates (CASAs); DMP mediators and administrator; a domestic violence consultant; and community service providers.

At the initial meeting, the lead judge explained that the DMP is the next step in bringing the Court's programs closer to nationally recognized "best practices." In addition, the desired outcomes of the DMP, the specific goals of the DMP, and the need for stakeholder training were discussed; draft mediation process documentation was provided; a glossary defining acronyms was proposed; and other areas of discussion (e.g., documents to be provided to mediators and staff participants, process of mediation, and level of mediation agreement) were addressed. At follow-up, pre-implementation meetings, topics included: potential start date; days, times, and locations for mediation; the process for providing case records to the mediator, as well as other pertinent documents to the other involved parties; training for mediators; adoption agreements; revisions to informational brochures; issues to be mediated (e.g., petition language, visitation, case plan, and placement); and status checks. The meetings served as opportunities to examine what was and was not working and allowed the DMP administrator to make necessary adjustments, both to the implementation process, and to the mediation program as it

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<sup>4</sup> Crowley, M. (2012). Dependency mediation. *Nevada Family Law Review*, 25, 12-17.

progressed. For example, mediation was originally slated to start with termination of parental rights cases, but was adjusted to begin earlier in the cases (pre-adjudication).

One of the primary goals of these monthly, pre-implementation meetings (as well as the subsequent monthly post-implementation meetings) was to ensure that the program was poised to meet its six specific goals:

1. Mediate 150 cases during the initial year;
2. Achieve full or partial agreement in 75% of mediations;
3. For mediated cases, reduce the average time from petition to a permanency outcome that includes reunification, adoption or guardianship, to 18 months or less;
4. Ensure that 80% of the mediated cases in which agreement is reached come to a permanency outcome that includes reunification, adoption or guardianship;
5. Create a 33% reduction in the number of TPR actions awaiting trial;
6. For those cases in which the petition is denied, reduce the amount of time mediated cases spend in the subsequent court hearing or trial by at least 50%, from the current average of 3 hours.

In Clark County, the goal is that all juvenile dependency cases are automatically ordered to mediation by the court if there is any contested issues related to the dependency petition, termination of parental rights petition, permanency planning hearing, or contested placement or visitation. At present, only one judge is ordering cases to mediation. All of the cases being ordered to mediation are early in the case process, and include cases where parents deny the petition allegations. The date and time of the mediation session is set by the court, and formalized through a court order; participation by all parties to the case is mandatory. Three hours are set aside for each mediation session. The first mediation occurred February 2013.

On the day of mediation, the mediator provides an orientation for the parents and any parties new to process. The mediators give each parent a brief overview of the mediation process and parents then sign a confidentiality statement. Additionally, all parties sign a confidentiality statement prior to the mediation.

Mediators in Clark County use a facilitative group mediation model of mediation, a style of mediation that emphasizes the neutrality of the mediator. A facilitative mediator does not present his or her own

views of the case or of the agreement, and is instead focused on ensuring that all parties have an opportunity to be heard and that parties reach an agreement everyone can agree on.<sup>5</sup>

At the conclusion of a mediation session, the mediators use a laptop to write the agreement while all parties are in the same room. The agreement is printed, signed by those who have authority to do so, and each party receives a copy. The agreement is then entered into the electronic case management system and forwarded to the judge, who has to then sign the agreement and file a court order. All participants are then asked complete a short survey regarding their perceptions of the mediation, the outcome and how they were treated.

## Study Overview

To assess the implementation and current functioning of the mediation program, an evaluation was conducted of the Clark County Mediation Program. The evaluation had several components, including a process evaluation that examined the implementation of the mediation program as well as its current functioning and a satisfaction evaluation that assess users' perceptions of the mediation program.

### Process Evaluation

For the process evaluation, an online survey was sent to stakeholders involved with the juvenile dependency mediation program to learn more about implementation and current functioning. The survey was sent in March 2013. Follow-up interviews were conducted with key stakeholders to gain a more in-depth understanding of the program and provide additional context to the online survey results. The follow-up interviews were conducted in April – June of 2013. The process evaluation examines five research questions:

1. What were the challenges and successes with program implementation?
2. What could have improved the program implementation process?
3. Is the mediation program successfully engaging parents and stakeholders?
4. Does mediation save court time/reduce workload?
5. In what ways could the program be improved?

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<sup>5</sup> Imperati, S. J. (1997). Mediator practice models: The intersection of ethics and stylistic practices in mediation. *Willamette Law Review*, 33, 703-745.

## Satisfaction Evaluation

As part of ongoing efforts to gauge program satisfaction, mediators give all mediation participants—parents and stakeholders—a survey after each mediation session. Participants are provided a box to submit all their completed survey to ensure confidentiality of responses. The satisfaction evaluation addresses four research questions:

1. How are parents treated during mediation sessions?
2. Do parents' perceptions of treatment affect agreement rates?
3. Do stakeholders and parents perceive that mediation is helpful?
4. What did participants find most and least helpful about the mediation session?

Project staff provided NCJFCJ researchers with all of the satisfaction surveys collected from the first 10 mediations. This resulted in a sample of 77 surveys that were used to explore differences in perceptions between parents and stakeholders and answer the research questions.

## Results

### Process Evaluation

Twelve stakeholders (60%) responded to the online survey. Eleven respondents indicated their role (Table 1).

Table 1. Role of Respondents		
	N	%
Administrator	0	0.0
Attorney	4	36.4
Social Work Supervisor	0	0.0
Child Advocate	3	27.3
Mediator	3	27.3
Judge	1	9.1
<b>Total</b>	<b>11</b>	<b>100.00</b>

Eleven respondents indicated how many mediation sessions they attend per month on average. Sixty-three percent of the respondents (n=7) said they attend one to two mediation sessions per month, 18.2% (n=2) attend three to four, and 9.1% (n=1) attend 5 or more per month. The remaining 9.1% (n=1) indicated they never attend mediation sessions.

## *Implementation*

To understand how the mediation program was implemented, stakeholders involved in the implementation process answered the following questions in the online survey:

- What were the barriers or challenges in implementation?
- What were the strengths in implementation?
- Were there things that you believe could have been done to expedite the implementation or improve the implementation process?

***Barriers to Implementation.*** In Clark County, program start up activities lasted approximately four months; the program was funded to begin in October of 2012 and the first mediation occurred in February of 2013. The delay was due to several reasons: another transition in the juvenile court, concerns from community partners about the sustainability of the program, initial lack of staffing and resources, resistance from stakeholders, disagreements about mediation timing in a case, logistical and administrative issues, engagement and creating buy-in, and conflicting priorities in Family Court.

***Strengths of Implementation.*** Participants were also asked what worked well during project start up. Respondents cited the communication and initial outreach between mediators and stakeholders played a key role. Stakeholders and partners were able to express their concerns openly which allowed for a flexible and dynamic situation. This created a state where the program could be fluid and change as stakeholders saw it appropriate. It also fostered an environment for buy-in, and allowed an opportunity to educate partners on the benefits of a mediation program. Other elements important to program implementation success were stakeholder buy-in, collaboration, team building, judicial leadership, commitment to the program, and shadowing Washoe County mediation program.

***Areas if Improvement.*** Participants were asked what could have been done to improve the implementation process. Respondents cited bad timing and slow start-up as things that could have improved the implementation process. Other suggestions included starting meetings with partners earlier, introducing the program to stakeholders prior to implementation, and more concrete start dates to keep all parties accountable to the start date.

## *Program Goal*

When asked what the goal of the dependency mediation program is, several respondents said the primary goal of the program is to achieve permanency for families and children in the child welfare court

system in an expedited manner, which is safe and best for the children involved. Others said that mediation acted as an alternative to court and a way to engage families. Survey participants indicated that mediation gave a forum for all parties to negotiate and resolve conflicts in a “solution-oriented” process with improved outcomes. Participants also noted that mediation saves the court time and resources. The quote below is from one respondent and the statement describes the objective of the mediation program.

*“To change the ‘culture’ of the child welfare system from the traditional litigation mindset to a family-driven, family-supportive mindset in order to achieve permanency for the children in a more timely manner.”*

### *Program Functioning*

Survey participants were asked to rate their level of agreement on several response items related to implementation, participation, and effects of mediation. Table 2 presents the results for all responses along a five-point scale, with 1 being “strongly disagree” and 5 being “strongly agree.” Higher numbers, therefore, indicate more agreement with the statement.

<b>Table 2. Average Response Ratings</b>	
The implementation of the mediation program was a success (n=10)	2.9
All stakeholders who are invited attend mediation sessions (n=10)	4.1
Parents, who are invited, attend mediation sessions (n=10)	4.3
Mediation sessions are successful in reaching agreements (n=10)	4.2
Parents at mediation sessions are engaged in the process (n=10)	4.9
Mediation reduces the time to case resolution (n=10)	3.2
All stakeholders at mediation sessions are prepared (n=10)	3.7
All stakeholders at mediation sessions work toward reaching agreement (n=10)	3.9
Parents at mediation sessions work toward reaching agreement (n=10)	4.3
Mediation is a good alternative to court (n=10)	4.2
All stakeholders get a voice at mediation sessions (n=10)	4.8
Parents get a voice during mediation session (n=10)	4.9
Age appropriate children are invited to attend mediations (n=10)	4.6

As shown in the above table, the average response for most items ranged between somewhat agree and strongly agree. Some notable exceptions are that respondents indicated less agreement with “The implementation of the mediation program was a success” and “Mediation reduces the time to case resolution.” Most of the survey participants who answered the question “Parents get a voice during mediation sessions” strongly agreed.

Participants were also asked several open ended questions, which are answered below.

*What are the barriers to utilizing mediation for parents?*

In terms of barriers for parents, one respondent noted that adequate attorney representation is critical. Many respondents noted that time and transportation are issues for parents who are typically low income, lacking resources, or possibly incarcerated. It may be hard for them to take three hours off work or find child care in able to attend mediation and therefore choose not to attend. One respondent noted that caseworkers do not always locate and offer transportation to reluctant parents. Some respondents noted that parental education of mediation is important so that parents understand the purpose of mediation. Many respondents noted that they did not see any immediate barriers for parent engagement at this time.

*What are the barriers to utilizing mediation for stakeholders?*

Barriers for stakeholders included lack of resources, time, and a commitment to the program. Some respondents said that there is a shortage of staff at agencies and this can make it difficult to balance caseloads with mediation. Other stakeholders believe that mediation creates duplicate work and actually adds to workload. Another barrier cited was a lack of cooperation and willingness to mediate as opposed to litigate. For instance, one respondent noted that when the Safety Assessment Tool by the Department of Family Services (DFS) was mentioned in mediation, it is often ignored and is viewed negatively by other stakeholders. A second respondent indicated that the DA's office may discourage their client from taking a particular position, making it difficult for CPS workers to fully participate.

*In moving forward with the mediation program, what are some ways in which the program could be improved?*

Areas for improvement included reducing the amount of time for stakeholders in mediation, training and engagement of stakeholders, and continue modifying the process as necessary. A few respondents felt that most, if not all, dependency cases should be referred to mediation, which would demonstrate the courts' commitment to the mediation and not litigation of these cases. Some also felt that mediation should not be in *addition to*, but *instead of* court, which would reduce overall time for the case. One respondent would like to see a shorter time between ordering the mediation and when it occurs.

Training and education for all stakeholders was cited as a strategy for ongoing improvement, as it would help attorneys who may be more comfortable litigating. One respondent felt that the mediators should be more involved during the mediation process. The need to continue to adjust the program as concerns

are raised was pointed out by a few respondents. Some felt the program is still very new and did not know exactly how the program could be improved at this time. One respondent thought the program should be discontinued.

### *Workload*

Survey participants were asked how mediation affected their workload. The answers are reported in Table 3.

<b>Table 3. Mediation and Workload</b>	
Mediation reduces my workload (n=10)	2.6
Mediation requires the same amount of time as going to court (n=10)	2.5
Mediation adds to my workload (n=10)	3.9

As shown above, the average answer from participants regarding reduction of workload was between “neither agree nor disagree” and “somewhat disagree.” The average answer regarding increases to workload was “somewhat agree.” The respondents “somewhat disagreed” that mediation requires the same amount of time as going to court. This indicates most responded felt that mediation increased their workload.

Additional Comments regarding workload included:

- I have no doubt that mediation, in the long run, will definitely lower my workload and result in better outcomes for the children by engaging the family and others in arriving at solutions instead of being told what the family needs to do in order to have the children returned.
- When all the parties come to the table in good faith with a collaborative attitude and are prepared, mediation often results in an agreement, which reduces the stakeholders' workload.

### *Follow Up Interviews*

Six in-depth interviews were conducted with mediators and other juvenile dependency stakeholders to get a better sense of how the program was implemented, how it is currently working, and any areas for improvement. Interview participants were asked specifically about the barriers and successes related to program implementation, challenges, improvement areas, parent and stakeholder engagement, and benefits of the program. (Questions are listed below in blue.) The themes that arose from the interviews were similar to the responses found in the online survey and although there were several different questions asked, the same issues seemed to appear in different questions.

*What did you see as barriers to implementing the mediation program?*

- *Inadequate buy-in from stakeholders.* The mediation program is new and may be seen as time consuming compared to going to court. Initially, there was resistance from attorneys about mediation and some see it as time wasted. There was a previous mediation program in Clark County and they did not successfully demonstrate the long term benefits to families and the system, therefore this program may be seen in the same light. There may be “initiative fatigue” on the part of stakeholders in the system.
- *Fragmented framework.* Some participants stated that the unclear framework in the beginning was a barrier because this created confusion about the process and expectations. A number of the mediations have many social workers in attendance and there is some role confusion between investigators and permanency workers. There may need to be an exploration of who needs to attend and who does not.
- *Adversarial environment.* Although the purpose of mediation is to create a non-adversarial environment, in some situations this still exists. Stakeholders noted they felt the purpose of mediation is to get children out of the system faster and that all parties need to be reasonable in their expectations. This confrontational style can create walls between parties and unnecessarily lengthen the process.

*What did you see as successes to implementing the mediation program?*

- *Successful outcomes.* In the short time that mediations have occurred in Clark County, they have been relatively successful. The large majority of cases have been either full or partially mediated. The informal feedback from stakeholders involved in those cases has been positive.
- *Dynamic and flexible environment.* This program continues to improve through meetings with all partners. At these meetings concerns are brought up and addressed, which keeps this program fluid in nature and ever-adjusting for quality improvement.

*What are the biggest challenges to reaching an agreement?*

- *Lack of cooperation of parties.* The juvenile dependency system in Clark County has functioned in its capacity for many years and this mediation program can create a situation that may challenge some parties’ old way of dealing in the child welfare system. All parties need to understand each other roles in order to work together as a team to get the families the help

they need. All parties also need to come to the table willing to compromise.

- *Large number of people at mediation, possibly not appropriate for facilitative model.* As stated previously, there are many individuals at the mediation table, each with their own roles and responsibilities. Having so many stakeholders involved makes reaching an agreement difficult. Stakeholders have different visions for the case, all with competing interests. This can create a chaotic environment that can result in a breakdown in the agreement. Based on the model of mediation used, this may not be the best scenario. Some respondents noted that there are issues brought to mediation that cannot be mediated, such as placing a child back home with a parent who still has major safety issues to address.
- *Adversarial propensity.* Some in the mediation process still have the desire to litigate rather than reach an agreement outside of court. There can be unwillingness to compromise and some participants are coming into mediation very positioned.

*What do you see as areas of the program that need improvement?*

- *More directive mediators.* Some participants noted that mediators should be more pro-active and less passive mediators. Stakeholders would like to see the mediators move the conversations and enhance their skills. It would also be beneficial for mediators to understand the role of all stakeholders.
- *Systematic approach to improving mediation.* The Clark County mediation program is currently working and engaging partners in how to tighten up mediation. As discussed previously, there are many people at the mediation table and this creates a challenging and chaotic environment.
- *Limiting the number of attorneys present.* A proposed idea to mediation is limiting the role of the attorneys to just the legal issues, such as petition language. The idea is that parties may engage the family faster if they are more selective in what the attorneys are included in. The Clark County mediation program is exploring a similar model that is used in Santa Clara, CA.
- *Solution-focused problem solving approach.* It was suggested that parties be more sensitive toward parents and their approach to mediation. The primary focus should be on problem solving.

*How could parent engagement with the mediation process be improved?*

- *Less accusatory environment.* To ensure that parents stay engaged in the mediation process, it is

important to create an environment that is less accusatory towards the parents. It is important to be aware of body language and the words used. A wall goes up with parents when you use words like “You did this or that.”

- *Current satisfaction with parent engagement.* Some stakeholders noted that parent engagement was a current strength of the program and did not feel as if this area needed strong attention. The parents are encouraged to invite people in their lives to the process.
- *Chaotic environment can impact families.* As noted several times, there are many people at the table during mediation and that can create a chaotic environment that is not linear in nature. This can impact the parents’ experience with mediation. It may be necessary to identify the decision makers at the table and limit the discussion role to these individuals.
- *Better education for parents.* Prior to their mediation session, it is essential to educate parents so they can learn how mediation is different from court—parents do not know the process and do not know what to expect. Helping these parents initially in the process is important.

#### *How could stakeholder engagement with the mediation process be improved?*

- *Development of stakeholder buy-in.* In order to improve stakeholder engagement with the mediation process, participants discussed the importance of buy-in and the need for a consistent feedback loop between the mediators and stakeholders. The attitude toward mediation and the understanding of the long-term goals of the program could use some improvement.
- *Invite additional community partners to the table.* Some respondents felt it would be helpful to have drug treatment partners available during these discussions. In addition, respondents suggested that it would be useful to have some peer model programs available for parents to advocate their position better. NCJFCJ provided a program curriculum to Clark County, but the issue is time and resources to implement this program.
- *Improved reporting system and information sharing.* Stakeholders would like to know more about the mediation program and would like to see data that demonstrates time savings. Positive results from mediations would encourage stakeholders to stay vested in the program. There have been similar programs in Clark County that were unsuccessful, so there is a fear that this program may not work out either. Quarterly reports that could be easily adapted and disseminated to stakeholders were suggested.

- *Current satisfaction with stakeholder mediation.* Some participants said they are happy with the engagement by family services, CASA, and domestic violence (DV) partners.

#### *What they find the most beneficial about mediation?*

- *Creation of cooperative relationships.* Having people come to better working relationships is invaluable. Mediation especially improves relationship between parents and social workers, and creates more cooperation between parents and agency.
- *Early engagement with family.* Engaging the family early in the case can alleviate issues later. Some people noted that working with DFS early in the case benefits their clients and keeps all parties accountable to the agreement reached in mediation. Social workers also like seeing the families early in the case and being able to ask them non-confrontational questions.

### **Satisfaction Evaluation**

After a mediation session, all participants are given satisfaction surveys. The surveys ask parents and other family members to indicate their perceptions of how they were treated and involved during the mediation session, along with the level of agreement. The surveys ask stakeholders to indicate where the case stands in the dependency process, their perceptions of how they were treated and involved and whether the session was conducted fairly. The surveys ask all participants to note what was most and least helpful about the mediation session.

#### *Level of Agreement*

The surveys asked participants to indicate whether the mediation session resulted in full, partial, or no agreement. It is difficult to report the agreement rate from the satisfaction surveys. Out of the 10 mediations, all participants indicated the same level of agreement in only 3 sessions (30%). In the remaining mediations, participants marked different levels of agreement. For example, in one session, four participants marked “no agreement” and one participant marked “partial agreement.” The discrepancy in agreement levels could indicate a breakdown in communication as to the formal level of agreement in the majority of mediation sessions. Despite the discrepancy, 39% of participants indicated that the mediation resulted in full agreement (see Table 4).

<b>Table 4. Level of Agreement</b>		
	<b>N</b>	<b>%</b>
<b>No</b>	12	16
<b>Partial</b>	35	45
<b>Full</b>	30	39
<b>Missing</b>	0	0
<b>Total</b>	<b>77</b>	<b>100</b>

#### *Parental treatment and participation during mediation sessions*

Twenty-four of the 77 mediation participants were biological parents, extended family members, or children. All were asked if the mediator explained the process so they knew what to expect. The majority “strongly agreed” with that statement (56.5%). Participants were also asked if they had a chance to voice their opinion and if they were treated with respect. A majority of respondents “strongly agreed” that they had a chance to voice their opinion and were treated with respect (57% and 62%, respectively). There was no substantive difference when biological parents’ responses were analyzed separately. All parents were also asked if they felt listened to during the mediation. The majority of respondents either agreed or strongly agreed (42% and 54%). Parents were asked if they were a part of finding answers to problems discussed; 59% agreed and 36% strongly agreed. Finally, when asked if the mediator treated everyone fairly, 54% of parents strongly agreed. See Table 5, below, for percentages across all questions and response categories.

<b>Table 5. Parental Treatment and Involvement (Percent)</b>					
	No, Strongly Disagree	No, Disagree	Yes, Agree	Yes, Strongly Agree	Missing
<b>The mediator explained the mediation process clearly</b>	0.0	0.0	43.5	56.5	0
<b>Did you have chance to voice your opinion?</b>	0.0	4.2	54.2	41.6	0
<b>Were you treated with respect?</b>	0.0	0.0	41.7	58.3	0
<b>Were you really listened to?</b>	0.0	4.2	45.8	50	0.0
<b>Were you able to be a part of finding answers to problems?</b>	0.0	4.5	59.1	36.4	0.0
<b>Did the mediator treat everyone fairly?</b>	0.0	0.0	41.7	54.2	4.2

#### *Do stakeholders and parents perceive that mediation is helpful?*

Even in instances where no agreement was reached, many stakeholders and parents indicated that mediation was helpful. The survey asked parents and stakeholders if they thought the agreement would work. Forty-three (67%) answered the question. The majority of respondents who answered the question said “yes,” while 22% were “unsure” or “hoped so.” No party said the agreement would not work.

### *Most and least helpful about mediation*

What participants found most helpful about mediation was the opportunity for all parties to gather at the same table, share information and talk openly in a neutral, non-hostile, and respectful environment. Other benefits to mediation were learning about the positions of other parties, having a DV advocate present, visitation discussions, engaging in problem solving, reaching compromises, and allowing parties, especially parents, to express their opinions—all within an environment that is less stressful than court.

What participants found least helpful about mediation were instances where discussion would get off topic or too focused on irrelevant issues, tension between parties, parties unwilling to compromise, and unprepared parties.

Overall, mediation in dependency cases (in Clark County) is positive with some lessons learned during the implementation phase. In general, both parents and stakeholders agreed that mediation is successful. Stakeholders agreed that mediation lessened their workload in preparation and hearings, and is a good alternative to court. Parents also agreed that they felt heard, respected, and treated fairly during the process. When parents felt part of the process and when the mediators clearly explained the process, this was associated with a higher level of agreement.

## Discussion

The mediation program in Clark County, NV had some delays with implementation. While the program was slated to begin in October of 2012, the first mediation was not held until February of 2013. The delay was due to logistical concerns, transitions in the juvenile court, and inadequate buy-in from system stakeholders. While mediation did finally begin, it appears that some of these concerns persist within the system. Responses from stakeholders do indicate that there is insufficient buy-in to the program, with many believing it will not be effective in meeting its goals, and others believing it actually adds to their workload. These implementation barriers may be contributing to the low number of mediations that have occurred. Further, changes in the child abuse and neglect court system may also

be serving as system barriers. The lead judge was the only judge referring to dependency mediation and this was occurring when the parents entered a plea regarding the petition allegations. Recent structural changes to the court process have changed so that the lead judge now does not oversee this portion of the case. The result is that no cases have been referred to mediation for more than six weeks.

It does appear that once cases are sent to mediation, that the result is primarily positive. According to stakeholder perceptions, 84% of mediations have resulted in full or partial agreement. Stakeholders indicated that the mediation is beneficial in engaging parents in the system. Survey responses support this, as parents who participated felt that they had a voice in the system, were treated with respect, and were listened to. Overall, the system seems to be effective in engaging parents and creating cooperative relationships between parties.

The program also appears to be doing well in terms of continuous quality improvement (CQI). The program administrator has definitely embraced a CQI focus and has worked diligently to make needed modifications to the program as concerns arise. As evidenced by the monthly meetings (which are still ongoing), several issues have arisen which required changes to the program, either logistics, or program implementation. The program administrator has followed up with key system stakeholders whenever concerns arose and worked with the entire committee to come up with timely and effective resolutions. While there are still kinks in the system, many improvements have already been made to ensure that mediation began and was meeting the needs of the parents *and* the stakeholders. The program should be commended for its flexibility and desire to make the necessary adjustments to improve implementation and functioning. These efforts should continue until the program is fully embraced and meeting all of its goals.

### **Recommendations for Program Improvements**

The findings of the process and satisfaction evaluation allowed for the generation of some recommendations for program improvements. These recommendations are meant to help guide discussions of ways that the program could be improved, but are also important to provide context and useful information to new sites that may be struggling with or in the process of establishing their own mediation programs. The recommendations listed below include the areas of implementation and startup as well as considerations for improving current practice.

### **Implementation Lessons Learned & Recommendations**

1. *Education and Outreach Are Important.* Program startup should include education and outreach to all stakeholders who may/should be involved in the mediation. Clark County did a good job of bringing multiple systems stakeholders to the table for the monthly meetings. An additional educational piece might be effective in helping stakeholders to understand the importance of mediation. This may include a one-page research summary of the benefits of mediation in child abuse proceedings or dissemination of a report of findings from a similar jurisdiction that has implemented a mediation program.
2. *Buy-In From All Stakeholders Will Help Encourage Mediations.* Even if project partners are educated about the benefits of mediation, mediation may not be successful if key professional stakeholders do not believe the program is beneficial and useful. Engaging in meaningful discussions about the benefits of mediation may help to improve buy-in.
3. *Referrals to Mediation Need To Be Consistent.* While Clark County is a large jurisdiction, very few referrals to mediation have occurred in the project period. Judges and Masters who are committed to the program need to ensure that referrals are consistently being made. If the plan of the program is that all parents who deny petition allegations are referred to mediation, then judicial officers who oversee these hearing types must consistently make these referrals. Again, this will be critical in evaluating the effectiveness of the program. Without a sufficient number of mediations, comparisons cannot be made to determine effectiveness.

#### Improving Process & Recommendations for Next Steps

4. *Ensure All Parties Understand the Agreement.* Satisfaction surveys revealed that the parties involved did not always have the same perception of the level of agreement that was reached. It is important that *all* persons understand whether full agreement was reached. In particular, this is important for parents, to ensure that they know what occurred at the mediation and what the next steps are in the case.
5. *Ongoing Education & Outreach.* Education and outreach should not stop with implementation. There is a high rate of turnover for many of the professional stakeholders involved in the child welfare system. Continuing education and outreach efforts will ensure that new stakeholders are familiar with the program. One potential outlet in Clark for this continued education may be the Model Court collaborative meetings that occur monthly.
6. *Generate Buy-In & Stress Importance for Research Efforts.* Project partners should be made aware of the necessity of buy-in as an important piece in ensuring the program can be

evaluated. Resistance may be because stakeholders do not believe in the program or feel that it will add to their workload. If stakeholders understand that research can provide these answers to them, *but only* if they give the program a real chance to work, this could increase buy-in. Further, the lack of buy-in reduces the overall number of mediations and may reduce its effectiveness. Better buy-in from stakeholders can help to ensure program fidelity.

7. *Continue with CQI Efforts.* The program administrator has done a good job of trying to identify challenges to success implementation of the mediation program. Problems with the program still exist and must be addressed to ensure necessary adjustments are being made that will make mediation successful in Clark County.
8. *Share Results.* A summary of the mediation reports might be useful to share with system stakeholders in order to increase buy-in and to demonstrate the positive results of mediation. At a minimum, identifying the number of the mediations held, the agreement rate, and the percentage of time this results in vacated hearings would be interesting to stakeholders and could help with outreach and buy-in of other stakeholders in the process.

## Conclusion

Although the Clark County DMP was delayed in implementation and has held very few mediations to date, it does appear to be successful in meeting some of its goals. Eighty-four percent of mediations have resulted in full or partial agreement (per perceptions of users). The parents appear to be engaged in the system. Parents feel like they have a voice and are part of the decision-making process. Most stakeholders also feel that mediation is successful in increasing cooperation among parties and engaging parents.

The program, however, does have areas for improvement. In particular, stakeholder buy-in and the referral process could be improved to ensure that cases are being referred and that all parties involved believe that the mediation process can be helpful. It is difficult to draw broader conclusions as this study was limited in scope by the number of mediations that have occurred and the limited stakeholder perspectives (as some had only been to 1 or 2 mediations). This research could easily be expanded to when more cases have been mediated. The expanded research could help to confirm or clarify the current findings and provide additional context. Future research should also examine the outcomes of the case to determine if workload is higher for mediated cases and if mediation is successful in improving outcomes for the child and families involved.