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RESEARCH REPORT

OUTCOME EVALUATION OF THE
SECOND JUDICIAL DISTRICT COURT'S
DEPENDENCY MEDIATION PROGRAM
(WASHOE COUNTY, NEVADA)



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Executive Summary

In August 2011, the Second Judicial District Court (SJDC) of Nevada in Washoe County implemented a dependency mediation program. The overarching goal of the mediation program is to reduce the time to permanency for children. The mediation program also aims to understand and resolve legal and non-legal issues, provide opportunities for parties to speak for themselves and hear others, and build relationships. In mediation, parties are able to meet in a neutral setting with the help of an impartial third party to address case issues and identify available options to keep children safe and achieve timely permanency.

The National Council of Juvenile and Family Court Judges (NCJFCJ) has conducted research on the impacts of dependency mediation program in the SJDC and other selected jurisdictions in Nevada. The initial outcome evaluation of the SJDC mediation program, completed in 2013, found that mediated cases were more likely to result in reunification when compared with non-mediated cases; and that fathers who participated in mediation were present at more court hearings compared with fathers who did not participate. Previous research in Nevada, as well as other jurisdictions throughout the country, has shown that mediation can enhance case processing (i.e., improve timeliness of court events), increase key participant (i.e., parents, children, relatives, and foster parents) and system stakeholder (i.e., prosecutors, parents' and children's attorneys and advocates, social workers, and others) engagement in the case process, and improve juvenile dependency case outcomes (i.e., reunification, timelines of permanency) in a non-adversarial manner.

For the current study, the Nevada Administrative Office of the Courts (AOC) elected to contract with NCJFCJ again to conduct an updated outcome evaluation of the SJDC program. In addition, NCJFCJ also conducted process evaluations of the SJDC program and the newer Statewide mediation program operating in all counties.¹ These process evaluations appear in two separate reports and focus on participant and stakeholder satisfaction measures related to mediation.

This report examines a range of performance indicators and outcome measures related to the impacts of mediation in both dependency and termination of parental rights (TPR) cases in Washoe County and expands upon the initial outcome evaluation studies conducted in 2013. However, while this report expands upon the initial 2013 studies, it is important to note that the

¹ The SJDC program is now part of the Statewide mediation program.

current study represents a first phase outcome analysis with subsequent research anticipated to extend beyond this study.

This study includes analyses of data culled from automated court case files for dependency cases that experienced mediation (referred to as the “Mediation Dependency” group), dependency cases that did not experience mediation (referred to as the “Control Dependency” or non-mediation dependency group), and a third group comprised solely of TPR cases that experienced mediation (referred to as the “Mediation TPR” group).

Cases with petitions filed during a four-year period (calendar years 2013-2016) were systematically sampled (see the Methods section of this report for a description of systematic sampling) for inclusion in the analysis, with 40 cases selected for case file reviews for each of the three study groups. The three groups or cohorts produced by this sampling approach, even with some minor differences in some of the dependency groups’ case characteristics, are considered representative of the broader dependency and TPR case populations in the SJDC. The absence of a control TPR cohort in this evaluation is because there were not enough contested TPR matters that did not go through mediation to establish a sufficient non-mediated comparison TPR group. It appears that the SJDC is firmly committed to using mediation in all or almost all contested TPR matters.

During the 4-year period covered in this evaluation, the SJDC experienced substantial increases in dependency petition filings (up over 70% from 2012-2016) and state-initiated TPR filings (up 17%). This is important context to keep in mind because these increases, along with the extremely challenging nature of these cases, can exacerbate the workloads of the court and others involved in these matters. Mediation and other alternative dispute resolution options are essential to helping the court and its partners manage these demands.

The SJDC’s current dependency mediation program was modeled after a mediation program initiated in the SJDC during the early 2000s. The program assigns trained, neutral mediators to dependency (and TPR) cases to provide mediation at any point in the case. In dependency matters, mediation in the SJDC is most commonly ordered by the court at the adjudicatory/disposition stage, though it can be ordered at any stage. Cases are automatically ordered to mediation by the court if there are any contested case issues. Once the possible contested circumstances in a case are identified, the court sets the date and time of the mediation session. Once ordered, participation in mediation by all parties to the case is mandatory with the exception

of domestic violence cases and cases in which a parent lacks the capacity to make a decision in mediation.

Previous process evaluations of mediation in the SJDC point to clear benefits of the program. For example, mediation has successfully reduced litigation in cases by achieving a high rate of agreement or resolution of contested dependency case issues. A clear majority of mediation participants and professional/system stakeholders also report being very satisfied with their SJDC mediation experience, regardless of the pending legal action or stage of the case in which their mediation was held. Furthermore, mediation participants and professional/system stakeholders reported that mediation provided them with the opportunity to voice their opinions and concerns and that they were treated fairly and with respect in the mediation.

With respect to case outcomes, previous evaluations of the SJDC mediation program found that mediated cases were more likely to result in reunification of the children with their families when compared with non-mediated cases (e.g., among mediated cases that had closed, 88% resulted in reunification, while only 50% of non-mediated closed cases resulted in reunifications). Fathers who participated in mediation were also more engaged and were present at more hearings compared with fathers who did not participate in mediation (e. g., fathers who participated in mediation attended 72% of all court hearings, while those who did not participate in mediation only attended 50% of their hearings).

The current phase one study builds upon previous evaluations of the SJDC mediation program to expand knowledge about the possible impact mediation has on key performance indicators and case outcomes. Specifically, the study examines whether mediation impacts the court's case processing workload by reducing the need for contested hearings, and whether mediation is having an impact on the timeliness of permanency and on the achievement of permanency outcomes for children.

Planning, designing and operating a successful dependency mediation program is a challenging task that involves bringing together the various child protection system stakeholders, obtaining judicial support, funding, and, in some cases, fostering a paradigm shift that creates greater collaboration between the stakeholders and participants, and a commitment by all to better include families in the decision-making process. While the SJDC mediation program continues to exhibit many strong attributes, positive impacts, and benefits, the challenges posed by these complex cases remain daunting. Based on the findings of this study, along with the growing body of research on dependency mediation in other jurisdictions, the SJDC Dependency Mediation

program is playing an essential role in helping the court and its partners manage this difficult workload.

SJDC Mediation Program Outcome Evaluation: Key Findings

The outcome study revealed a number of important findings. The primary findings from the current study are outlined below, starting with a general summary of important case characteristics that illustrate the many challenges and complexities associated with dependency and TPR cases. These findings indicated that:

General Case Characteristics

1. Children in all three study groups tended to be very young;
2. Neglect was the most frequent substantiated allegation in all three study groups though most cases had multiple allegations—the study also found that despite systematic sampling, more cases in the Mediation Dependency group involved allegations of child physical abuse;
3. A substantial number of the young child victims in all three study groups were diagnosed with mental health disorders;
4. A substantial number of cases in all three study groups involved multiple children with different fathers;
5. In all three study groups, many of the parents exhibited serious substance abuse, particularly methamphetamine, along with substantial rates of domestic violence, parent incarceration, homelessness, and parent mental illness; and
6. Despite systematic sampling and many similarities between the two dependency study groups, there were some important differences between the two groups to note. There were substantially more parents in the Mediation Dependency group who displayed multiple presenting need/problem areas compared with parents in the Control Dependency cohort. Similarly, parents in the Mediation Dependency cohort had more of the needs/problems identified within the victim types and special classification categories that are part of the Victims of Crime Act (VOCA) reporting requirements. These are important factors to keep in mind as they may reflect indications of greater case complexity in the Mediation Dependency group.

Mediation Dependency Cases: Key Performance and Outcome Findings

- The median days from removal to disposition hearing was significantly shorter for Mediated dependency cases (half of cases reached disposition within 56 days) than for non-mediated cases (half took longer than 78 days to reach the disposition hearing).
- Slightly more Mediated than non-mediated dependency cases achieved permanency (i.e., reunification, adoption, guardianship, or another permanency outcome resulting in case closure).
- Mediated dependency cases were more likely to close and achieve permanency due to adoption (31%) compared with the non-mediated dependency group (23%).
- Although slightly fewer Mediated dependency cases (6 in 10) than non-mediated dependency cases (7 in 10) closed as a result of reunification, Mediated dependency cases were more likely to result in reunification with *both* parents (1 in 3 versus 1 in 6).
- Mediated dependency cases achieved permanency and closure (regardless of permanency outcome) 11 days earlier on average than non-mediated dependency cases.
- Mediated dependency cases that achieved permanency by reunification with *both* parents took substantially less time (half were closed in 218 days or less) than non-mediated cases that resulted in reunification with *both* parents (half took 309 or more days to close).
- Cases that reunified with only one parent (mother or father) took longer to close than those that reunified with both parents. This was true for both Mediated and non-mediated dependency cases, although non-mediated dependency cases were more likely to result in reunification with only one parent (nearly 6 in 10 compared with fewer than 3 in 10 for Mediated dependency cases).
- Parent attendance at mediation (i.e., at least one parent attending) has improved dramatically over the past 6 years, with 95% of mediations having a parent attend in 2016 and 100% of mediations having a parent attend in the first 2 months of 2017 (the end of the study period).
- Dependency mediations occurred early in cases, taking a median of 76 days from the date of a child's removal in a dependency matter to the date of the mediation.
- A majority of parents who attended dependency mediation reached at least partial agreements (73% of mothers and 58% of fathers), though more mothers than fathers reached full agreements. (70% versus 55%, respectively).
- Mediated dependency cases were associated with a much higher number of vacated hearings (N=65) than the control group (N=12). This finding was statistically significant, indicating that mediation had a positive impact. Many of these vacated hearings were contested matters that would have placed additional burdens on the court docket if not vacated.

Other key findings included:

- The median child ages at petition filing for the Dependency Control and Mediation Dependency groups were 5.6 years and 4.8 years, respectively, and 4.5 years for the Mediation TPR study cohort—these median ages indicate that, generally, children involved in the study were quite young;
- Neglect was the most frequent substantiated allegation in all three study groups, with 90% (N=36) of the Control Dependency, 75% (N=30) of the Mediation Dependency, and 95% (N=38) of the Mediation TPR group exhibiting this case characteristic—very few of these cases involved substantiated allegations of child sexual abuse (i.e., just 3% for the Control Dependency group, and 5% for both the Mediation Dependency and Mediation TPR groups)—however, it should be emphasized that many cases had multiple substantiated allegations;
- Physical abuse was also a prominent substantiated allegation appearing in 18% (N=7) of the Control Dependency, 40% (N=16) of the Mediation Dependency, and 15% (N=6) of the Mediation TPR study groups;
- Child abandonment or endangerment were also common substantiated allegations, found in 26% (N=10) of the Control Dependency, 16% (N=6) of the Mediation Dependency, and 18% (N=7) of the Mediation TPR group cases;
- Despite systematic sampling and many similarities between the two dependency study groups, this study found that there were substantially more parents in the Control Dependency group with only one presenting need/problem documented in court files compared to parents in the Mediation Dependency cohort (i.e., more often, parents in the Mediation Dependency group had multiple needs/problems documented in files), with a similar finding for needs/problems identified within the Victims of Crimes Act victimization types and special classification categories—this is an important factor to keep in mind as it may reflect indications of greater case complexity in the Mediation Dependency group;
- While this study involved a limited analysis of the problems and needs of children involved in these cases, the study did find that one-fourth of the children in the two dependency cohorts and 13% in the Mediation TPR group exhibited confirmed, diagnosed mental health/developmental problems at young ages;
- The study found that 30% of the two dependency group cases and 25% of the TPR cases involved multiple fathers—the presence of different adult males (most often due to

- multiple siblings) magnifies the challenges faced by the court, the mediation program, CPS/DCFS, and others in attempting to achieve safe and timely permanency for abused and neglected children;
- The high incidence of serious substance abuse among parents (for example, more than 90% of mothers in the Mediation TPR group and 70% of mothers in the Control Dependency cohort), particularly for methamphetamine abuse and addiction, along with substantial rates of domestic violence, parent incarceration, homelessness, and parent mental illness, further amplifies the difficulties associated with these matters;
 - Cases were compliant with mandated timeframes to achieve the first permanency hearing—both the Control Dependency and Mediation Dependency groups met the ASFA (and NRS 328B) time requirements for holding 12-month permanency hearings in almost all cases included in the study (Medians = 361 and 362 days, respectively);
 - For the TPR Mediation group, it took a median of 90 days from TPR petition filing to mediation being ordered by the court, a median of 131 days from petition filing for mediation to be completed, and a median of 40 days from mediation being ordered to agreement being reached;² and,
 - For mediated TPR cases, it took a median of 319 days from the filing of the TPR petition for those cases to reach case closure.

Recommendations for Continued Evaluation and Program Improvement in the SJDC

1. *The SJDC should consider initiating strategic program planning with its key partners to identify mediation program areas that may be further strengthened to address the complexities associated with dependency and TPR cases.* Given the identified levels of multiple and serious needs/problems across dependency and TPR cases, along with the recent five-year increases in dependency and TPR filings in the SJDC, it may be advisable for the court, its key partners, and community members to further examine persistent challenges that can impact mediation program performance and outcomes. Issues pertaining to serious parent substance abuse, parent incarceration, domestic violence, and other areas identified in this phase one study, seem particularly relevant in this regard. The SJDC program has demonstrated a strong commitment to improve its performance since 2011 (e.g., the dramatic improvements in parent attendance at mediation), and the serious difficulties associated with so many of the cases involved in mediation adds further impetus for continuous quality improvement efforts.

² The 90-day timeframe for mediation in TPR matters is set by the court.

2. ***Examine options for continuing to or increasing the use of mediation across the “life” of a case.*** The findings of this study suggest that mediation, in both dependency and TPR matters, has positive effects on a number of key events. Once more, with the recent increases in dependency and TPR filings in the SJDC, having mediation even more available may offer additional benefits.
3. ***Take steps to improve the mediation program’s internal automated data and case tracking capabilities.*** Nevada dependency and TPR mediation have been the subjects of repeated analyses over the past five-plus years, reflecting an exceptional commitment to and support for ongoing outside evaluation of not only the SJDC mediation program but also mediation throughout the state. While outside program evaluation has important merits, mediation program administration should also look at how to enhance internal capabilities to track program performance and outcomes. The first step, perhaps, could focus on helping the state promote Continuous Program Quality Improvement or CQI efforts.³
4. ***To obtain a comprehensive picture of the impact mediation is having on dependency case outcomes, additional evaluation research that builds upon the current study is needed.*** Continued research of the impacts of the SJDC juvenile dependency mediation program on case outcomes should be undertaken. This would involve using the listing of program evaluation research questions to prioritize which questions could be addressed in the next phase of analysis. Because the current evaluation of the SJDC’s mediation program collected additional data that are not covered in this report, a first step could involve some or all of the following areas of analysis:
 - a. Examining the impacts of various case characteristics on key performance measures and case outcomes – this could start with multivariate/regression analyses of characteristics that may include parent needs/problems and VOCA victimization types and special classification categories;
 - b. Assessing the extent of case plan compliance in dependency mediation cases vs. a control group of non-mediated cases (e.g., the extent of parent case plan compliance at the six-month review hearing and 12-month permanency hearing stages);

³ In addition to state level enhancements, there may also be workable options in the SJDC where program administration uses Excel to track mediation cases. It may be possible to implement workable enhancements to the SJDC’s Excel database with an eye toward improving the program’s internal capabilities to track cases, key performance indicators, and outcome measures. Enhancements might also include more automated “real time” charts, reports, and/or tables that capture key performance and outcome data.

- c. Comparing mediated and non-mediated cases on child placement histories, placement stability indicators, and related cost factors;
- d. Examining the differences between mediated and non-mediated cases in compliance with additional ASFA and NRS time requirements (e.g., the timeliness of first permanency hearings, the timeliness of filing of TPR petitions);
- e. Studying mediation in TPR cases further by developing a SJDC TPR control group to compare to mediated TPR cases (this would require drawing a sample of TPR cases for analysis that closed prior to the inception of the mediation program); and,
- f. Analyzing the possible cost benefits associated with mediation. For example, the Nevada CIP office estimates that the statewide dependency mediation program is costing \$274 per child. Future analyses could examine this estimate in relation to likely savings achieved through reductions in court hearings and perhaps other variables.

Table of Contents

Executive Summary	vi
Introduction	1
The Adoption and Safe Families Act	1
Nevada Revised Statutes (NRS)	1
SJDC Dependency Mediation Program Overview	1
Overview of Goals of Mediation in the SJDC	3
Previous Assessments of the SJDC Dependency Mediation Program	4
Purpose of the Current Phase 1 Outcome Evaluation	6
Literature Review	8
Prior Research	8
Timely Case Resolution and Agreements	9
Communication and Engagement	9
Satisfaction	10
Cost Benefits and Efficiency	11
Methods	12
Research Design	12
Sample Selection	13
Instrumentation & Data Collection Procedures	15
Data Analysis	16
Results	19
Dependency Cases	19
1. How similar were the mediation and control groups in terms of case characteristics?	19
<i>Abuse/Neglect Allegations</i>	19
<i>Child Characteristics</i>	20
<i>Indian Child Welfare Act Cases</i>	21
<i>Parent Characteristics</i>	21
<i>Other Parent/Family Characteristics</i>	25
Case Outcomes and Performance Measures	27
2. What impact does mediation have on case closure timeliness and permanency outcomes for children?	27

<i>Case Closures</i>	27
3. <i>What effects does mediation have on court hearings?</i>	30
<i>Court Hearings</i>	30
<i>Timeliness Measures</i>	33
5. <i>What impact does mediation have on permanency plans?</i>	34
<i>Permanency Plans</i>	34
6. <i>What types of mediation agreements result from mediation?</i>	35
<i>Mediation Agreements</i>	35
Mediation Attendance	37
Termination of Parental Rights (TPR) Cases	39
<i>Mediation TPR Case Characteristics</i>	39
<i>TPR Child Characteristics</i>	40
<i>TPR Parent Characteristics</i>	41
<i>Victims of Crime Act Victimization Types and Special Classification Categories—Mediation TPR Group</i>	45
<i>TPR Case Outcomes and Performance Indicators</i>	46
<i>TPR Case Closures</i>	46
<i>Continued and Vacated TPR Hearings</i>	48
<i>TPR Timeliness Measures</i>	49
<i>TPR Mediation Agreements</i>	49
Discussion	52
Summary of Outcome Findings	52
Limitations of the current study	53
Conclusion	54
References	61
Appendix A Dependency Mediation Program Protocol	63
Appendix B Dependency Mediation Training Agenda	65
Appendix C Statewide Juvenile Dependency Confidentiality Agreement	71
Appendix D SJDC Dependency Case File Review Form	73
Appendix E SJDC TPR Case File Review Form	79
Appendix F SJDC Mediation Case Data Sheet	84

Introduction

The Adoption and Safe Families Act

The federal Adoption and Safe Families Act of 1997 (ASFA) played a critical role in a wide range of dependency-related reforms by implementing new provisions and modifying existing law to require that states balance family preservation and family reunification while ensuring that the health and safety of children in foster care is the paramount concern. ASFA was intended to expedite permanency for foster children and to promote adoption for those children who could not safely return home. Some of the biggest changes made by ASFA included shortened time lines for child abuse and neglect case processing, including establishing that a permanency planning hearing for children in care be held within 12 months of a child's entry into care,⁴ and requiring that a petition to terminate parental rights (TPR) be filed for any child that has been in foster care for 15 out of the most recent 22 months unless specific exceptions can be applied.⁵ ASFA's passage contributed, in part, to the notion that alternative dispute resolution mechanisms such as mediation could help courts address the shortened time lines for decision-making in dependency cases imposed by the new law.

Nevada Revised Statutes (NRS)

In some respects, the time requirements under NRS 432B are stricter than those in ASFA. For example, while ASFA time requirements for mandatory termination of parental rights filing (65 F.R. 4060) is 15 months from foster care entry, if the "child is in foster care 15 of the last 22 months," NRS 432B.553 specifies "mandatory termination filing if (the) child is out of parent's care 14 of the last 20 months." As such, the Nevada state requirements provide even more impetus for courts to have alternative dispute resolution options, including mediation, available for dependency and TPR matters.

SJDC Dependency Mediation Program Overview

Mediation offers a cooperative approach to dependency cases, with the goal of moving cases forward quickly and collaboratively in a non-adversarial setting, avoiding contested trials. It allows everyone involved in the case - parents, social workers, attorneys, relatives, and sometimes the children themselves, to meet in a safe, confidential environment to discuss the case

⁴ 42 USCA § 675(5)(C)

⁵ 42 USCA § 675(5)(E)

and find ways to resolve it. The Second Judicial District Court of Nevada in Washoe County (SJDC) implemented its dependency mediation program in August 2011 to support parents and stakeholders in the child abuse and neglect court system and to help resolve contested matters that may delay or inhibit timely permanency for children.

Modeled after a somewhat similar program that operated in Washoe County in the early 2000s, the SJDC's current dependency mediation program assigns trained, neutral mediators to dependency cases to provide mediation at any point in the case. In the SJDC, juvenile dependency cases are automatically ordered to mediation by the court if there are contested jurisdiction/disposition issues, a contested permanency planning hearing, a contested termination of parental rights (TPR) petition, or other contested case issues. Once the possible contested circumstances are identified, the court sets the date and time of the mediation session. Participation in mediation by all parties to the case is mandatory.

With respect to domestic violence (DV), the mediation program has taken into account prior research that indicates that DV is frequently present in child abuse cases. As a result, a DV protocol has been developed for the statewide mediation program (for which SJDC serves as the model) which establishes specialized procedures designed to protect victims of DV in the mediation session. (See Appendix A). The mediation protocol is consistent with the recommendations of NCJFCJ's *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice*. The protocol holds that the issue of DV itself will never be mediated, though conditions designed to preclude violence may be appropriate for discussion. Additionally, the program (and the mediators) recognizes that DV may impact the parties' ability to participate in their own best interest or the best interest of the child. This recognition allowed the mediation program to create specific measures in the protocol to help rectify the imbalance of power during the course of mediation.

In scheduling mediation, the court generally allots three hours for each mediation session. In addition to the 120 court case files sampled for the study, 80 randomly selected mediation "case data sheets" which document start and end times for mediations (as well as other data) were analyzed (see Appendix E). These case data sheets found that both the mean and median times for mediations in the SJDC approached 90 minutes.

Three mediators with years of experience mediating a variety of issues were recruited for the SJDC mediation program. On the day of mediation, the mediator provides each parent a brief overview of the mediation process. All parties sign a confidentiality agreement prior to the

mediation. The agreement states that the mediator and participants are not allowed to disclose to anyone else any communications made in a mediation session and that information from a mediation session cannot be used in the court case related to the mediation. However, there are certain circumstances where these protections do not apply. This includes information that supports new allegations of child abuse and neglect, information about elder abuse or dependent adult abuse, and participants' threat to harm him/herself or someone else. A copy of the confidentiality agreement is attached in Appendix B.

Mediators use a facilitative model, a style in which the mediator does not present his or her own views of the case or of the agreement, but is instead focused on ensuring that all parties have an opportunity to be heard and that parties reach an agreement that meets everyone's needs (Riskin, 1994). If an agreement is reached at the conclusion of mediation, a written agreement is printed and signed by those who have authority, with each party receiving a copy. The agreement is then entered into the court's electronic case management system (Contexte) and forwarded to the judge. After reviewing the agreement (e.g., ensuring that the agreement is appropriate), the judge signs it and enters a court order formalizing the agreement in the case.

Overview of Goals of Mediation in the SJDC

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

Sample Feedback Received from SJDC Dependency Mediation Program Stakeholders and Participants

"Dependency mediation creates a human place for these discussions."

—Parent's Attorney

"Parents have a voice, perhaps for the first time."

—District Attorney

"I liked the fact that I didn't feel attacked. We are all in agreement. I appreciate this meeting. I believe it helped out a lot"

—Parent

"...mediation is reaping benefits [for cases] through earlier participation of parents and the tantalizing possibility that mediation will be a significant tool with which to accelerate the safe and effective reunification of families. The Dependency Mediation Program is a great example of how the modest dollars of investment early on in a case can reap untold rewards in positive outcomes later."

—Judge, SJDC

Source: SJDC Program Quarterly Grant Reports

Goals of the SJDC Dependency Mediation Program include:

- Creating a settlement process that is inclusive, collaborative, confidential, and is conducted with fidelity to a facilitative mediation model;
- Reducing litigation;
- Increasing resolution of dependency case issues;
- Improving timeliness outcomes for children;
- Improving permanency outcomes for children;
- Decreasing placement moves for children; and
- Enhancing meaningful participation of children and youth in the dependency case process.

A number of these goals are covered in this Phase 1 study (and in the SJDC Process Evaluation report), while some could be more directly addressed in a Phase 2 study.

Previous Assessments of the SJDC Dependency Mediation Program

In 2012, the Nevada Administrative Office of the Courts (AOC) awarded a contract to the National Council of Juvenile and Family Court Judges (NCJFCJ) to conduct preliminary assessments of the SJDC mediation program as well as emerging “statewide” dependency mediation programs. The previous mediation program assessments in Nevada, and the corresponding reports released in 2013 and 2014 (MacGill, Summers, Wood & Bohannon, 2013a.; Summers, Wood, Bohannon, Gonzales & Sicafuse, 2013b.; Summers, Wood & Bohannon, 2013c.; Summers & Bohannon. 2014), found that although there was an overall positive perception that mediation was successful and that it tended to reduce workload demands, parent attendance at mediation tended to be less than initially hoped. Parent “no-shows,” where neither parent appeared for mediation, when they occurred, prevented mediation sessions from being held. The previous studies also identified the need for further outreach and education for system stakeholders in order to improve buy-in for the mediation program.

The preliminary 2013 outcome and process evaluation reports of the SJDC program highlighted the overall positive perceptions of the program and presented preliminary performance and outcome data. The first of these two outcome analyses (MacGill et al., 2013) examined small samples of mediated and non-mediated termination of parental rights (TPR) cases. The analysis found that there were fewer default orders for mothers and fathers in mediated TPR cases. However, mediation was also found to be associated with somewhat longer times to TPR case outcomes for mothers, compared with non-mediated cases. There was also an association found

between TPR mediation and an increased number of hearing continuances, as well as increases in vacated settlement conferences and vacated contested trials.

The second preliminary outcome evaluation in the SJDC (Summers et al., 2013) took an initial look at the impacts of mediation in dependency cases, excluding TPR matters. This second evaluation found that fathers who participated in dependency mediations were present at higher rates in court hearings than fathers who did not participate in mediation. The study also found that mediated cases were more likely to result in reunification than non-mediated cases.

Summary of Key Findings of Past Evaluations of the SJDC Dependency Mediation

Program:

- Stakeholders and participants perceived mediation to be successful.
- Stakeholders agreed that mediation lessened their workload in preparation for and in hearings, and is a good alternative to court.
- The majority of the mediations resulted in agreement (78%).
- Participants felt they were listened to, respected, and treated fairly during mediation.
- Mediated cases had fewer default orders.
- Mediated cases were more likely to result in reunification of the children with their families when compared with non-mediated cases (i.e., among mediated cases that had closed, 88% resulted in reunification, in comparison 50% of non-mediated closed cases resulted in reunifications).
- Fathers who participated in mediation were more engaged and were present at more court hearings compared with fathers who did not participate in mediation (i.e., fathers who participated in mediation attended 72% of all hearings, compared with 50% for those who did not participate in mediation hearings).

The previous SJDC studies contained a number of recommendations intended to help the court continue its mediation program improvement efforts, particularly those related to improving stakeholder engagement and reducing (primarily parent) no-shows that forced mediations to be cancelled. In response to the initial findings and recommendations, the SJDC made concerted efforts to improve both key stakeholder engagement and parental attendance. These efforts were particularly focused on attorneys for parents who were in a key position to most directly encourage parents to attend and participate in mediation. Additional recommendations suggested

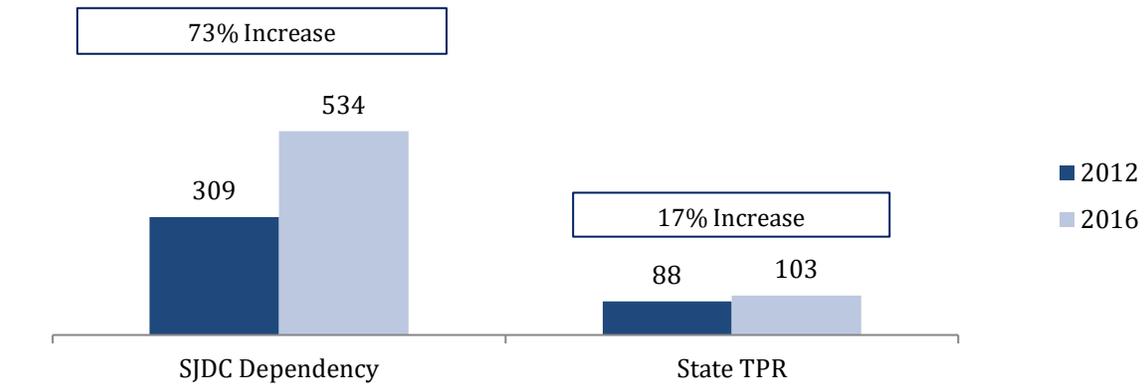
that the mediation program identify options to reduce the length of time for mediation sessions, to ensure that all parties understand mediation agreements, and that program staff continue to educate and reach out to stakeholders to familiarize them with the mediation process and its benefits, and to take appropriate steps to increase buy-in.

Purpose of the Current Phase 1 Outcome Evaluation

The primary purpose of this phase one outcome evaluation is to conduct an initial examination of program impacts on prioritized program goals and objectives with particular emphasis on measures related to permanency outcomes, timeliness, and other important program performance indicators. This study also presents details related to a range of case characteristics data including child and parent characteristics that describe what cases in the SJDC “look like.” This includes the types of challenges, needs, and problems most often associated with these matters. This study confirms that the vast majority of dependency and TPR cases in the SJDC, regardless of whether the cases received a mediation or not, involve families that present tremendous challenges to the court and the community, including issues related to serious substance abuse (particularly, methamphetamine abuse and addiction), domestic violence, parent incarceration, homelessness, poverty, and mental illness.

The current study covers a more extended time period (roughly 4 years) than the previous outcome studies and thus, allows for examination of performance and outcomes as the SJDC program has evolved. This updated assessment captures a period in which important programmatic changes were implemented, particularly changes intended to reduce parent no-shows at mediation events. This period was also marked by a dramatic increase in dependency filings (up 73% over the last 5 years) and an increase in state initiated TPR filings (up 17%) in Washoe County, as shown in Figure 1.

Figure 1. SJDC Dependency and State TPR Filings (CY 2012 - 2016)



Source: SJDC Contexte Data (2012 -2016)

Literature Review

This section provides an overview of time requirements associated with the federal Adoption and Safe Families Act (ASFA) and Nevada state statutes, along with key findings with respect to dependency mediation process and outcomes found in the literature in the field. Findings and the associated publications are organized into five general categories that capture the primary themes of prior mediation research and that offer a simple framework for organizing and presenting the research content. A more detailed annotated bibliography is also included in Appendix G.

Prior Research

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

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

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

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

Timely Case Resolution and Agreements

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

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

Communication and Engagement

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

Mediation can also be beneficial for participants other than parents. These other participants may include relatives (biological or fictive, for example) who may not have legal standing in court but

who can play important roles in permanency planning for dependent children. Mediation allows them to assist in decision-making and the creation and completion of service plans (Thoennes, 2009).

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

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

Satisfaction

The prior research in Nevada found that a substantial majority of mediation participants were either somewhat satisfied or very satisfied with the mediation process (Summers, et al., 2011; Summers et al., 2013). In these studies, parents and other participants indicated that mediation helped them better understand the expectations and roles of everyone involved, helped them feel respected and listened to, helped them feel that their input was understood, offered them more time to talk about issues that they deemed were important, and helped them feel that they were part of the decision-making process (Summers et al., 2011; Summers et al., 2013). Parents also indicated that mediation resulted in their questions being answered and parents felt they were treated with respect (Summers, et al., 2013). Moreover, a considerable body of research has also

shown that satisfaction with mediation is an important contributor to compliance with court rulings and regulations (e.g., Tyler, 1990; Tyler & Huo, 2002).

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

Cost Benefits and Efficiency

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

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

Methods

This outcome evaluation aims to assess various case characteristics and case outcomes that are associated with current mediation practice in the SJDC and highlight the impacts of the mediation program

The current/first phase evaluation seeks to begin to address the following research questions, though some of these questions will also require further analyses:

1. How similar were the mediation and control groups in terms of case characteristics?
2. What impact does mediation have on case closure timeliness and permanency outcomes?
3. What effects does mediation have on court hearings?
4. Do key court events occur in a more timely fashion when cases are mediated?
5. What impact does mediation have on permanency plans?
6. What types of mediation agreements result from mediation?
7. Has there been a change in the rate of parent “no-shows” at mediation since 2014?

Research Design

This outcome evaluation examined case outcomes for groups of child abuse and neglect (dependency) and state-initiated termination of parental rights (TPR) cases.⁶ The cases included in the current study were sampled systematically from the universe of cases that were filed in the SJDC between 2013 and 2016. The evaluation was designed to compare the outcomes of cases that were ordered/referred to mediation with cases that did not receive mediation.

Through this design, four comparison groups were initially envisioned: Mediation Dependency, Mediation TPR, Control Dependency, and Control TPR. The control groups were to only include contested dependency and contested TPR cases that were handled via the traditional hearing process (i.e., not ordered to mediation). In this instance, “contested” means that the parties (i.e., parents) in cases selected for the study must have at least initially contested (e.g., denied) the allegations in the dependency or TPR petition filings. To further clarify, all cases selected for the control and mediation groups had to have documentation in the court file that clearly indicated that the court had entered a denial of the allegations in the petition for at least one parent. This

⁶ Chapter 128 of Nevada Revised Statutes contains the provisions related to termination of parental rights. In Nevada, a petition to terminate parental rights may be filed by the state (i. e., through the District Attorney’s Office) or by a private citizen. This study only examines state-initiated TPR petition cases, as these are the only cases eligible for mediation. See <https://www.leg.state.nv.us/NRS/NRS-128.html>.

documentation most often appeared in court minute entries associated with the hearing on the petition.⁷

To be valid comparison groups, the Control groups needed to be as similar as possible to the Mediation groups (e.g., involving contested matters and similar case characteristics). When the data collection for this study began, it was discovered that almost all of the cases in the Control TPR group were actually uncontested and thus, not appropriate for comparison purposes. Since all of the Mediation TPR cases were contested, the Control TPR group also needed to reflect this important characteristic, primarily because uncontested cases tend to resolve much more quickly than contested cases. Once it was realized that there were relatively small numbers of contested cases in the original Control TPR group, discussions with the SJDC's Family Services Division Program Manager (the person who oversees the SJDC mediation program) confirmed that the court had indeed, over the past 4 years, taken steps to direct all or most contested TPR cases towards mediation. For this reason, it was decided that comparing uncontested TPR cases that did not experience mediation with contested matters that did go through mediation would not be a valid comparison. As a result, the TPR control group was removed from the research design.

Thus, this study is only able to present comparison findings for the Control Dependency and Mediation Dependency groups, along with stand-alone descriptive findings for the Mediation TPR group. Future research may examine other TPR comparison group options that were not feasible during the current study.

Sample Selection

The court's Chief Information Officer provided a listing of all dependency and state-filed TPR cases that occurred between 2013 and 2016 in the SJDC. This listing attempted to separate cases that had gone through mediation from those that did not but as the researchers began to review files it became clear that some of the cases listed in the non-mediation group actually had been ordered to mediation.⁸ From a sampling perspective, however, this study did not involve random assignment (the systematic sampling approach used is briefly described below).

The initial 2013 SJDC mediation program outcome studies had relatively small sample sizes (primarily due to the fact that these studies examined the program during its earlier years) and

⁷ As shown in this study, the researchers examined parents' first responses to petitions (e.g., initial denials) and subsequent responses. Parents could and often did change their responses to petitions, sometimes because of mediation, but in some instances, due to other factors that would require further analyses to determine what contributed to such changes.

⁸ More recently, it appears the court is automatically ordering all TPR cases to mediation when a denial is made by a parent.

those studies recommended that a larger sample size would allow for broader analyses and longer follow-up periods to assess case outcomes. This recommendation, balanced by the time demands required for court file reviews and other considerations, contributed to the decision to have 40 cases in each sample group. With a sample size of 40 cases per group, a systematic sampling method was applied to the listing provided by the court to select the cases that would be reviewed for data collection.

In brief, a systematic sampling is a type of probability sampling method in which sample members from a larger population are selected according to a random starting point and fixed periodic interval. This interval, called the sampling interval, is calculated by dividing the population size (otherwise referred to as the “universe” of dependency and state-initiated TPR filings—there were 2,317 dependency filings and 396 state-initiated TPR filings during calendar years 2013-2016) by the desired sample size.⁹ This sampling method resulted in 40 cases being selected for each of the three study groups. If a case involved more than one child, one child was randomly selected for data collection purposes. Thus, the current SJDC outcome evaluation examines a total of 120 cases with 120 distinct children.

Table 1. Number of Cases for Each Study Group by Year						
	Number			Percentage		
	Mediation Dependency	Control Dependency	Mediation TPR	Mediation Dependency	Control Dependency	Mediation TPR
Total	40	40	40	100%	100%	100%
2013	13	12	8	33	30	20
2014	10	10	12	25	25	30
2015	12	12	20	30	30	50
2016	5	6	0	13	15	0

Table 1, shows the breakdown of the number of cases, by calendar year, and the corresponding percentages, for each of the three study groups. The Ns for the two control dependency groups were very similar in terms of the year by year break down. There were no 2016 cases included in the Mediation TPR study group. Exclusion of 2016 TPR cases was done intentionally because TPR cases tend to take longer to close, process, or resolve compared with dependency matters, and in order to track key performance indicators and timeliness measures (including time to case closure and key events) the study needed to allow for sufficient time to have elapsed in cases..

⁹ Filing data were provided by the SJDC’s Chief Information Officer via email on April 19, 2017.

Instrumentation & Data Collection Procedures

NCJFCJ developed the dependency and TPR case file review forms (see Appendices C and D), in consultation with the court, the mediation program manager, and the Nevada Court Improvement Program Coordinator, to capture the data applicable to the study's research questions. Over the course of three months (March, April, and May 2017), researchers used the case file review forms to collect data on 120 cases (40 per group). To ensure consistency and reliability of the data collected, the researchers periodically cross-checked each other's entries by coding the same files. Two NCJFCJ researchers completed more than 90 percent of the file reviews.

Since March of 1998, the SJDC has been under contract with, what is now Xerox, using their case management system called Contexte. Contexte is a Java-based application that runs with Oracle database managing the data and serving images to users. No paper case files are created or kept by the Court Clerk's office. The court is considered "paper on demand" as each document may be printed for a judge upon request. All dependency and TPR case files are electronic and are maintained in the Contexte system.

All case file reviews were conducted at the SJDC courthouse using computer terminals in the court's Information Technology training room. As can be seen on the case file review data forms, no identifying information (e.g., names of children or parents, etc.) were collected for this study, pursuant to the confidentiality/privacy agreement established between the SJDC and NCJFCJ. The court uses an automated, numerical method for assigning numbers to dependency (JV numbers) and TPR (FV numbers) cases. There is virtually no way to identify individuals involved in cases from the case numbers without access to the court's information system.

The case data sheets used to determine the median amount of time taken during mediation sessions (roughly 90 minutes per session based on entries in the case data sheets) were also selected through systematic sampling. A total of 80 case data sheets were reviewed to compile this information. While there is a field on the case data sheet that shows a child's (or children's) name(s), those names were redacted for this study.

Lastly, the SJDC's internal program data spreadsheet (maintained in the mediation office using Microsoft Excel) was examined to more precisely count the actual numbers of parent "no-shows" at mediations over the past six-plus years.

Data Analysis

The data collected through case file reviews were entered into the Statistical Package for the Social Sciences (SPSS) for analysis and imported into Microsoft Excel for further analysis and visualization purposes. Descriptive and inferential statistical analyses were run using the case file data to determine the case characteristics and outcomes associated with the mediation and non-mediation groups. The results of these analyses will be further explored in the next section of the report. Findings of statistical significance are noted where applicable.

As indicated, the outcome study research questions were prioritized to determine which questions would be addressed during this first phase of analysis. The prioritized research questions that were addressed in Phase 1, to a greater or lesser extent, are listed below:

- 1. *How similar were the mediation and control groups in terms of case characteristics?***
 - a. What do the Control Dependency, Mediation Dependency, and Mediation TPR cases look like?
 - b. In what ways is the mediation dependency group different from the control dependency group?

- 2. *What impact does mediation have on case closure timeliness and permanency outcomes?***
 - a. Does mediation contribute to more timely case closures? What is the time (in days) from the date of a child's removal from home (as identified in the Washoe County Department of Social Services (WCDSS)¹⁰ reports to the court and/or Protective Hearing minutes) to case closure for mediated versus non-mediated cases?¹¹
 - b. What are the case closure reasons for each case?
 - c. Are there differences between the mediation and control group in case closure rates and when case closures occur? Case closure is defined as the date of case dismissal by the court as documented in court case files.

¹⁰ In Nevada, Child Welfare and Child Protective Services (CPS) have historically functioned in a nationally unique "bifurcated" manner. Throughout this report, the authors will use WCDSS as the designated agency involved in these cases. However, to more fully understand the rather unique structure of child welfare and child protective services in Washoe County and Nevada, please go to <http://dcfs.nv.gov/Programs/CWS/>

¹¹ In a very small number of dependency cases, it was not possible to discern the exact date of a child's removal and the date of the dependency petition filing was used instead. Based on the court file reviews, it appeared that dependency petitions were filed, in almost all cases, one day after a child was removed.

- d. The categories/reasons for case closure included: Reunification with Mother/Father/Both Parents, Adoption Relative/Non-relative/Fictive Relative, Emancipation, Guardianship Relative/Non-relative, Voluntary dismissal by CPS/DCFS and the Court, Default Mother/Father, Relinquish Mother/Father, Death of child, and Other.
- 3. *What effects does mediation have on court hearings?***
- a. Does mediation reduce the number of court hearings?
 - b. Is mediation associated with lower rates of hearing continuances and higher rates of vacated hearings?
 - c. Does mediation reduce the frequency of contested hearings? (e.g., evidentiary or other contested proceedings).
 - d. Do other case characteristics have effects on hearings (e.g., number and types of hearings/completed/held?)
- 4. *Do key court events occur in a more timely fashion?***
- a. Using the median as the time measure, calculate the number of days from removal date to:
 - Date parent(s) admit, submit, or deny allegations in the petition.
 - Different hearings being held/completed (as documented in the court files).
 - b. For mediation cases, assess timeliness (again, using the median number of days) between:
 - Date mediation ordered by the court, date mediation being completed, and then level of agreement.
- 5. *Do mediated cases have less frequent changes in permanency plans than non-mediated cases?***
- a. Are there differences in permanency plans between mediated and non-mediated cases?

- 6. *What types of mediation agreements result from mediation?***
 - a. Categories of agreements included: Full, Partial, None, as these relate to the petition, placement, and/or other areas of agreement.
 - b. Agreements as to mother and/or father were also recorded on the case file review forms.
 - c. What effects do other case characteristics have on the types of agreements reached?

- 7. *Has there been a change in the frequency of parent “no-shows” at mediation since 2014?***
 - a. Did “no-shows” or mediation events “not held” because both parents did not attend mediation decrease during the study period? If at least one parent attended mediation (and in a substantial number of cases, mediation may be focused on issues tied to one parent only) mediation sessions are considered “held.”

While this analysis was not able to answer all of these questions to the levels of detail initially aspired to, it is anticipated that subsequent research might allow for even deeper examination of these important questions.

Results

Dependency Cases

1. *How similar were the mediation and control groups in terms of case characteristics?*

The 80 dependency cases (40 Control Dependency and 40 Mediation Dependency) reviewed provided data on a variety of case characteristics including information on child characteristics, parent characteristics, and specifics of the case. These characteristics are described below.

Abuse/Neglect Allegations

Several items in the case file review forms were created with the intention of collecting important data about parents. These data included the allegations substantiated in CPS reports, mothers’ presenting needs/problems, and fathers’ presenting needs/problems that were also detailed in the agency’s reports to the court. It should be noted that while each of the variables presented in the tables below are expressed as a percentage of the 40 cases in each of the two dependency study groups, the percentages sometimes summed to more than 100% because cases involved multiple allegations and/or multiple needs/problems.

Table 2, below, presents the distribution of the different substantiated allegations faced by parents for the Mediation Dependency and Control Dependency study groups. In brief, a substantiated allegation means that following a report of alleged child abuse and/or neglect, an investigation of the claims by CPS resulted in sufficient evidence that supported the claims.

Table 2. Substantiated Allegations—Dependency Study Groups

	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40	100%	100%
Child Neglect	30	36	75	90
Child Physical Abuse	16	7	40	18
Child Endangerment	3	5	8	13
Child Abandonment	3	5	8	13
Child Sexual Abuse	2	1	5	3
Other*	9	9	23	23

*Other includes allegations such as failure to protect the child, unable to care for the child, and violation of an existing safety plan for the child.

Source: SJDC Court Case Files (2013–2016)

There were similarities between the two groups in that neglect was the most common allegation and sexual abuse was the least common, but there were also differences. Among the Mediation Dependency cohort 75% of cases involved substantiated allegations of neglect but for the Control Dependency cohort the proportion was 90%. Physical abuse was a substantiated allegation in 40% of the Mediation Dependency cohort but in just 18% of the Control Dependency cohort cases. In most of the dependency cases reviewed, and in both cohorts, there were often multiple substantiated allegations. These often included “Other” allegations, found in 23% of both cohorts. These included allegations such as failure to protect the child, unable to care for the child, and violation of an existing safety plan for the child. Child endangerment and abandonment was each identified in 13% of each of the two groups. Sexual abuse was substantiated in only a handful of cases (two in the Mediation Dependency group and one in the Control Dependency group). Overall, the Mediation Dependency group had 10 more cases involving allegations of physical or sexual abuse than the Control Dependency group, offering one possible indication that the Mediation Dependency group exhibited more serious case characteristics than the Control Dependency group.

Child Characteristics

Using the court case files, additional data on case characteristics were extracted. As shown in Table 3 below, the median age of children in the Mediation Dependency group was slightly younger at 4.8 years of age at removal than the median age for children in the Control Dependency cohort which was 5.6 years at the time of removal. The gender distribution among the two groups revealed that males outnumbered females in the Mediation Dependency cohort, 60% to 40%, but in the Control Dependency group, females outnumbered males, 55% to 45%.

Table 3. Child Characteristics—Dependency Study Groups				
	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40	100%	100%
Median Age at Removal	4.8 years	5.6 years		
Gender				
Male	24	18	60	45
Female	16	22	40	55
Presenting Problem/Need				
Mental Health Developmental	10	10	25	25
Medical	3	1	8	3
Born Drug Exposed	0	1	0	3

Source: SJDC Court Case Files (2013–2016)

In addition to the substantiated allegations, the court case file reviews also attempted to identify additional ancillary needs and problems among children in the dependency groups. Table 3, above, shows the most frequently noted child presenting problems documented in reports submitted to the court by CPS social workers and/or other professionals involved in these cases. The most dramatic finding in this regard pertains to “Mental Health or Developmental Needs” with one-fourth of the children in each of the two dependency groups exhibiting this category of presenting problems. Researchers only recorded documented mental health diagnoses/developmental needs if these appeared in at least two separate reports to the court (and there were no indications in the court file that such diagnoses were contested or disputed). Typical examples of mental health/developmental needs of dependent children in the study groups included instances of diagnosed depression, anxiety disorders, and other diagnoses, and/or significant cognitive and development delays tied to abuse/neglect.

It is important to emphasize that this study did not involve a comprehensive examination of the range of needs and problems evident with these children. This would require a review of information beyond what is available in automated court case files, but this initial look does identify important preliminary information; that even upon a somewhat cursory review of these issues, 25% of the two dependency cohorts exhibited confirmed and diagnosed mental health/developmental problems—an unsettling finding for such a young age group.

Indian Child Welfare Act Cases

The Indian Child Welfare Act (ICWA) is a federal law that seeks to keep American Indian/Alaska Native children with American Indian/Alaska Native families. Congress passed ICWA¹² in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The study only found four ICWA cases in the dependency cohorts with three in the Control Dependency group and one in the Mediation Dependency group.

Parent Characteristics

Several items in the case file review forms focused on collecting important data about parents involved in these challenging matters. Parent characteristics ranged from whether or not a case involved multiple fathers, to descriptions of mothers’ presenting needs/problems, fathers’ presenting needs/problems, as well as descriptions of issues associated with the federal Victims of

¹²Found at www.nicwa.org/Indian_Child_Welfare_Act/.

Crimes Act (VOCA).¹³ The Victims of Crime Act of 1984 (VOCA) is federal legislation aimed at helping the victims of crime through means other than punishment of the criminal. Once again, as in the section describing child characteristics, it should be noted that while each of the variables presented in the tables below are expressed as percentages of the 40 cases, a substantial majority of parents presented multiple needs/problems. Furthermore, while the study identified one mother for each case in the three study groups, the same cannot be said for fathers. There were some cases that did not have identified fathers (Control Dependency N=1, Mediation Dependency N=5, Mediation TPR=7) and some cases had multiple fathers (see Table 6). Although a substantial number of cases involved multiple fathers (e.g., different fathers for different children involved in a case, etc.), there were also two cases in the dependency cohorts that involved multiple mothers (one in the Control Dependency Group and one in the Mediation Dependency Group). To keep things as consistent as possible, however, most of the results use the number of cases (e.g., 40) for comparison purposes.

The reports to the court from WCDSS highlighted a number of important parent needs and problems that further reinforced the complex nature of so many of these cases and their associated challenges. Tables 5 and 6 display the most common presenting parent needs or problems. Once more, researchers only recorded needs or problems that were confirmed by different sources and that appeared in two different documents in the court file.

Table 4. Mother's Presenting Needs or Problems—Dependency Study Groups				
	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40		
Incarcerated	19	16	48%	40%
Substance Abuse	18	28	45	70
Unsafe Home	16	20	40	50
Mental Health	12	8	30	20
Lack of Supervision	7	4	18	10
Criminal Activity	4	5	10	13
Other*	7	7	18	18

Note: Percentages may not sum to 100% because cases can involve multiple needs or problems.

*Other includes: Gambling problems, unable to locate parent, mental incapacity, prior involvement with CPS, etc.

Source: SJDC Court Case Files (2013–2016)

¹³ For more information on VOCA, including the types of VOCA grants administered by the U. S. Department of Justice, go to <https://ojp.gov/ovc/grants/>

Compared with mothers in the Control Dependency group, mothers in the Mediation Dependency group presented with a larger percentage of them having been incarcerated, having mental health needs, and lacking supervision of their children. The Control Dependency group mothers had greater proportions of substance abuse and unsafe homes and to a smaller extent, criminal activity.

Table 5. Father’s Presenting Needs or Problems—Dependency Study Groups				
	<u>Number</u>		<u>Percentage</u>	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40		
Unsafe Home	15	8	38%	20%
Incarcerated	14	19	35	48
Substance Abuse	14	16	35	40
Lack of Supervision	6	5	15	13
Mental Health	5	4	13	10
Criminal Activity	4	3	10	8
Other*	5	13	13	33

Note: Percentages may not sum to 100% because cases can involve multiple needs or problems.
 *Other includes: Gambling problems, unable to locate parent, mental incapacity, prior involvement with CPS, etc.
 Source: SJDC Court Case Files (2013–2016)

As shown in Tables 4 and 5, above, the three primary presenting needs/problems for mothers and fathers were similar. While the percentages vary somewhat between mothers and fathers, the three primary categories involve substance abuse (most often, serious methamphetamine abuse or addiction), unsafe home conditions (i.e., conditions that presented immediate hazards to children), and parent incarceration (i.e., at least one parent being incarcerated for at least 24 hours during any point in the life of the case).

As also shown in Table 5, above, fathers in the Mediation Dependency group were more likely to have unsafe homes (i.e., when fathers had separate residences) than fathers in the Control Dependency group, but were less likely to be incarcerated.

For many of these cases, when a parent was incarcerated, it was often for more than 24 hours and, in some cases, both parents were incarcerated at the same time and this circumstance (i.e., no parent to care for the child) directly led to the filing of the dependency petition. Future research should consider taking a closer look at the association between parent substance abuse, parent incarceration, domestic violence, homelessness, mental illness, as well as other factors discussed

in other sections of this report, along with the types of interventions that are being applied by WCDSS to better gauge their impacts on case outcomes.

In addition to the mothers’ and fathers’ presenting needs/problems summarized in Tables 4 and 5, one other case characteristic stood out in the file reviews—parent indigence. In almost every case reviewed, the court determined that the parents (one or both) met indigence criteria and the court appointed legal counsel to represent those parents because at least one parent could not afford to hire counsel themselves.

To get at least one other sense as to whether there were some important differences in the presenting needs or problems between the Mediation Dependency and Control Dependency groups, differences that perhaps could play a role in study findings, the researchers examined the frequency of presenting needs/problems for mothers and fathers in the two dependency cohorts. As shown in Table 6, below, it appears there may be another indication, albeit preliminary, that suggests that the cases in the Mediation Dependency group may be more complex or serious than the cases in the non-mediation control group. More specifically, as indicated in Table 7, there were more mothers and fathers with only one presenting need or problem in the Control Dependency group than in the Mediation Dependency group, with a total of 26 mothers and fathers in the control group compared with a total of 15 mothers and fathers in the mediation group displaying this characteristic. As with the previously noted higher incidence of child physical abuse allegations in the mediation group, the initial indication that the mediation study group has more cases with multiple needs or problems may signify important differences between the two groups.

Table 6. Parents No. of Presenting Needs or Problems—Dependency Study Groups				
	<u>Mediation Dependency</u>		<u>Control Dependency</u>	
	Mother	Father	Mother	Father
1 Presenting Need or Problem	5	10	11	15
2 Presenting Needs or Problems	14	13	10	16
3 Presenting Needs or Problems	14	8	16	8
4 Presenting Needs or Problems	6	4	4	3
5 or more Presenting Needs or Problems	1	0	1	0

Source: SJDC Court Case Files (2013–2016)

Other Parent/Family Characteristics

One important indicator of family stability or the lack thereof, involves the presence and role of fathers. The case files reviewed for this study revealed what seemed to be diligent efforts on behalf of WCDSS to locate and identify biological fathers, many of whom were difficult to find and/or were incarcerated at the time of petition filing.

The current study also took an initial look at the frequency of cases with biological, putative, and adoptive fathers, as well as the number with multiple fathers. A putative father generally means a man whose legal relationship to a child has not been established but who is alleged to be or claims that he may be the biological father of a child who is born to a woman to whom he is not married at the time of a child’s birth.

Table 7. Fathers’ Relationship to Child—Dependency Study Groups				
	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40		
Relationship				
Biological	30	28	75%	70%
Putative	5	10	13	25
Adoptive	0	1	0	3
Unknown	5	1	13	3
Multiple Fathers	12	12	30%	30%

NOTE: Percentages do not always sum to 100% due to some cases involving multiple fathers or unknown fathers.
Source: SJDC Court Case Files (2013–2016)

Table 7 above describes the percentages of biological, adoptive, and putative fathers in the two dependency study groups. As shown, 75% of the Mediation Dependency group and 70% of the Control Dependency cohort had identified biological fathers though the actual parenting roles such fathers played in their children’s lives varied greatly.

Three in 10 cases in both the Control Dependency and Mediation Dependency groups involved multiple fathers. The presence of multiple fathers often reflected the fact that there were different fathers of different children/siblings involved in a case (i.e., the mother was the same but different men fathered different children in the household) and/or that there was a stepfather who played a prominent role. In many of these cases, the family’s difficulties were often exacerbated by the fact that different men moved in and out of these households at different times and, quite often,

these men presented serious needs and problems. The presence of multiple fathers in 30% of the dependency cases reflects one of a number of challenges for the court, the child welfare agency, and the mediation program in terms of reasonable efforts, safety, and timely permanency for children.

Table 8. Parent Needs/Problems—Victims of Crime Act Victimization Types and Special Classification Categories—Dependency Study Groups

	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40		
Domestic Violence	15	14	38%	35%
Homelessness	9	12	23	30
Immigrant	2	1	5	3
Limited English	1	0	3	0
Commercial Sexual Exploitation of Child	1	0	3	0
Deafness	0	1	0	3

Note: Percentages may not sum to 100% because cases can involve multiple needs or problems.

Source: SJDC Court Case Files (2013–2016)

To examine additional and relevant case characteristics, the study included a first look at more specific issues tied to VOCA (VOCA provides an important portion of funding for mediation programs in Nevada). The VOCA victimization types and special classification categories are not separated out by mothers and fathers; they reflect the characteristics of the overall case/family. Table 8, above, shows that 70% (N=28) of the Control Dependency cases and 70% (N=28) of the Mediation Dependency cases—had at least one VOCA victimization type or special classification category. Most notably, 38 % of the Mediation Dependency and 35% of the Control Dependency group exhibited “active” involvement in domestic violence (DV). “Active” involvement means there were at least two separate sources of documentation in the court file that confirmed allegations of DV and that such involvement had clear relevance to the case. One example would be if a parent was arrested for and charged with DV at or around the time of the dependency filing. Most often, these DV incidents involved fathers and the incidents occurred early in the case and/or were key acts that triggered the dependency action. A substantial number of these DV incidents also resulted in the alleged perpetrators being charged with and incarcerated for criminal DV charges.

Homelessness was also a prevalent characteristic of these cases, with 30% of the families in the Control Dependency cohort and 23% in the Mediation Dependency cohort experiencing documented periods of homelessness during the time their cases were open.

As with the earlier discussion regarding mothers' and fathers' presenting needs or problems (see Table 6), the researchers took a preliminary look to see if there were any other differences between the two dependency study groups, specifically pertaining to VOCA victimization types and special classification categories. In brief, this initial review found that 22 of the Control Dependency cases exhibited no more than one VOCA victimization type or special classification category compared with 15 of the Mediation Dependency cases (a 32% difference). Again, further analyses would be needed to determine the possible impacts of this difference though this may be one more possible indicator of greater complexity in the Mediation Dependency group.

Case Outcomes and Performance Measures

To evaluate the impacts of the mediation program, several performance measures and case outcomes were examined and compared. These include data on case closures, court hearings, timeliness measures, and permanency plans. Furthermore, mediation cases were also examined as to the extent and types of mediation agreements, as well as mediation attendance measures that apply to both the dependency and TPR aspects of the program (attendance measures are covered later in this report).

2. What impact does mediation have on case closure timeliness and permanency outcomes for children?

Case Closures

Analysis showed that 80% (N=32) of Mediation Dependency cases and 75% (N=30) of Control Dependency cases were closed at the time of the file reviews. This should not be interpreted as a performance or outcome measure – it is simply a reflection of the fact that the two dependency study groups had fairly similar numbers of closed cases. With this many closed cases, the researchers examined two variables to obtain an initial measure of the impact of mediation on case closures; time from a child's removal to case closure and the reasons for/types of case closures.

Case closure was defined as a case being closed or dismissed by the court in a written order. As indicated, not all cases reviewed for the study had closed by the time the file reviews were completed—some cases were still open with the court (i.e., 25% of the Control Dependency and 18% of the Mediation Dependency cases).

Further analysis was run to determine if there was a difference between the two groups in the time it took to reach closure. To examine this, the median number of days from a child's removal to a case being closed was calculated. Overall, it was found that cases in the Control Dependency group took a median of 402 days to close, while Mediation Dependency cases took a median of 391 days to close, a difference of 11 days.

The study also took an initial look at median days to case closure/permanency by closure reason. When examining the median days to closure by closure reason, Table 9 shows that, overall, mediated dependency cases that resulted in *any* type of family reunification (N=19 cases) took slightly less time to close (median = 389 days) compared with the control group (N= 22 cases, median = 402 days)—a difference of 13 days.

Table 9 also shows that, for mediated dependency cases that resulted in reunification with *both* parents, the median time from child removal to closure was 218 days (N=10 cases). In comparison, the median days to closure in the Control Dependency group (N=5 cases) was 91 days longer, with cases taking a median of 309 days to close in a reunification with *both* parents. Reunification with mothers *or* fathers took longer than reunifications with both parents, ranging from 344 days and 419 days, respectively, in the mediated group (N=9 cases), and from 365 days and 382 days, respectively, in the control group (N=17 cases).

The smaller number of mediated and control dependency cases that achieved permanency through adoption (N=17 total cases) took longer to close than the reunification cases. The median days from removal to case closure due to adoption for each dependency group ranged from 894 days for relative adoptions and 944 days for non-relative adoptions in the mediation cohort (N=10 cases), compared with medians of 808 days for relative adoptions and 495 days for non-relative adoptions in the control group (N=7 cases).

Table 9. Median Number of Days to Case Closure by Case Closure Reason—Dependency Study Groups

	Mediation Dependency	Control Dependency
Total Cases	32	30
Overall	391 days	402 days
Reunify	389	401
Reunify Both	218	309
Reunify Mother	344	365
Reunify Father	419	382
Adoption	904	782
Relative Adoption	894	808
Non-Relative Adoption	944	495
Fictive Kin Adoption	–	1,091
Other Reasons	902	–
Guardianship-Relative	181	–
Unknown ¹⁴	421	–
Other*	160	395

*Other includes: aged out (N=2), alternative permanent plan living arrangement (APPLA, N=1), petition dismissed by court after parents agreed to comply with case plan (N=1).

NOTE: Fictive Kin Adoption, Guardianship-Relative, Relinquish-Mother, and Other all represent less than 10% of the case closure reasons.

Source: SJDC Court Case Files (2013–2016)

Reunification

More cases in the Control Dependency group achieved case closure by reunification (73%; N=22 of 30) than cases in the Mediation Dependency group which achieved case closure by reunification in 59% of all cases (N=19 of 32). Besides overall reunification rates in cases, researchers also examined the frequencies of reunification with *both* parents as well as reunifications with only one parent. When examining reunification with *both* parents, mediated cases had a higher rate of reunification (31%; N=10) when compared with non-mediated cases (17%; N=5). In contrast, cases in the control group (non-mediated cases) achieved higher rates of reunification with one parent only. Specifically, reunifications with mothers were higher in the non-mediated group (40%; N=12) than cases that had a mediation (19%; N=6), with a similar pattern found for reunification with fathers, with non-mediated cases achieving a 17% reunification rate (N=5) and mediated cases achieving a 9% reunification rate (N=3).

¹⁴ There were 3 cases that were closed by the court that involved a mother relinquishing her parental rights but the court file did not indicate (at the time of file reviews) the ultimate closure outcome. It is most likely that these 3 cases resulted in adoption of some type but that could not be confirmed at the time of the file reviews.

Table 10 below, provides the percent and numbers of cases that closed and achieved permanency for each dependency group and the reasons they closed.

Adoption

Looking at other case closure reasons/permanency outcomes, the cases in the Mediation Dependency group achieved higher rates of adoption (31%, N= 10) compared with 23% (N=7) for non-mediated cases. More mediated cases closed with relative adoptions (19%; N=6) compared with non-mediated cases (10%; N=3), and more mediated cases closed with non-relative adoptions (13%; N=4) than non-mediated cases (7%; N=3).

Table 10. Number of Cases Closed by Reason—Dependency Study Groups

	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	32	30		
Reunify	19	22	59%	73%
Reunify Both	10	5	31	17
Reunify Mother	6	12	19	40
Reunify Father	3	5	9	17
Adoption	10	7	31%	23%
Relative Adoption	6	3	19	10
Non-Relative Adoption	4	2	13	7
Fictive Kin Adoption	0	1	0	3
Other Reasons	4	0	13%	0%
Guardianship-Relative	1	0	3	0
Unknown ¹⁵	3	0	9	0
Other*	3	2	9%	7%

*Other includes: Aged Out (N=2), Alternative permanent plan living arrangement (APPLA, N=1), petition dismissed by court after parents agreed to comply with case plan (N=1)

Source: SJDC Court Case Files (2013–2016)

3. *What effects does mediation have on court hearings?*

Court Hearings

The data collected from the case files were analyzed to determine if the mediation program has an impact on case processing timeliness. Specifically, analyses were run to determine if there are differences in the median number of days from removal to key court hearings, if mediation

¹⁵ Again, these involved the 3 cases of mothers relinquishing their parental rights but the file reviews could not determine the ultimate case closure outcomes.

resulted in fewer hearing continuances, and if mediation resulted in more vacated hearings. Table 11 displays the time to hearing data. Independent t-tests demonstrated statistical significance in one of the hearing items—median days from petition to Disposition were found to be significantly higher ($p < .05$) in the non-mediation group than in the control group.

The median days to the 12-month Permanency Hearing were essentially equivalent for the Control Dependency and Mediation Dependency groups, at 361 and 362 days, respectively, indicating that in almost all instances, the court met the 12-month time frame required for the first permanency hearing in ASFA (and NRS 432B.). Future analyses could examine the extent to which the SJDC also meets the time frames under ASFA (and NRS 432B) for requiring that a petition to terminate parental rights be filed for any child that has been in out of home care for extended periods of time.

Table 11. Median Number of Days from Removal to Hearings Held

	Mediation Dependency	Control Dependency
Total Cases	40	40
Median Days from Removal to:		
Protective Hearing	1 day	1 day
Adjudicatory Hearing	48	45
Dispositional Hearing*	56	78
Semi-Annual Review Hearing	175	176
12-Month Permanency Hearing	361	362
Settlement Conferences	72	88
Evidentiary Hearing+	-	70
*Statistically significant difference ($p < .05$).		
+Evidentiary hearings were not common events with only two being held in the Control Dependency group.		
Source: SJDC Court Case Files (2013–2016)		

Hearing continuances were examined to determine if mediation resulted in fewer continuances of court hearings. Continued hearings can be important indicators of delay in timely case processing, delay that can also inhibit timely permanency. Simply put, more continuances generally equate with more delays in a case. Table 12, below, reflects the number of hearing continuances, per dependency group, for each type of hearing. Overall, mediated dependency cases experienced fewer continuances (50 total continued hearings in the Mediation Dependency group compared with 73 total continued hearings for the Control Dependency cohort).

Table 12. Number of Hearing Continuances—Dependency Study Groups

	Mediation Dependency	Control Dependency
Total Cases	40	40
Total Continuances	50	73
Protective Custody Hearing	2	9
Hearing on Petition (Adjudicatory)	28	38
Dispositional Hearing	5	7
Semi-Annual Hearing	2	4
9 Month Review	–	2
12 Month Review	5	5
18 Month Review	2	3
24 Month Review	1	1
28 Month Review	1	–
32 Month Review	–	–
36 Month Review	–	1
Settlement Conference	1	–
Evidentiary Hearing	1	2
Other Hearing*	1	3

*Other hearing types included Status Hearings or other types of hearings.
Source: SJDC Court Case Files (2013–2016)

Because one of the goals of dependency mediation is to resolve cases by reducing the need for litigation of issues in formal court proceedings, the number of vacated hearings in cases was examined to determine if mediated dependency cases resulted in more hearings being vacated when compared to non-mediated cases. Table 13, below, shows the number of vacated hearings, per dependency group, for each type of hearing. As shown, mediated dependency cases were associated with a much higher number of vacated hearings (N=65) than the control group (N=12). Independent samples t-tests revealed statistically significant differences between the two groups ($p < .05$). This means that the difference in the numbers of vacated hearings between the Mediation Dependency and Control Dependency groups was unlikely to be due to chance and that mediation had a positive impact on hearings being vacated. The higher number of vacated hearings is another important performance measure and this finding strongly suggests that mediation is helping the court avoid subsequent hearings that could, if these hearings were not vacated, substantially increase the court’s docket/workload.

In Table 14, below, it can be seen that this effect is particularly evident with Evidentiary Hearings (20 vacated in the Mediation Dependency cohort, 4 in the Control Dependency group), though mediation, because of the relatively high rate of agreements reached, often resulted in vacated

Settlement Conferences as well (2 versus 13, respectively). Evidentiary hearings are not scheduled or held in all dependency matters, of course, though the higher number of these hearing types being scheduled (and thus, vacated) in the Mediation Dependency group may be another indication that mediation cases tended to be more complex and/or perhaps involve more contested issues than the non-mediation group.

Table 14. Number of Vacated Hearings—Dependency Study Groups		
	Mediation Dependency	Control Dependency
Total Cases	40	40
Total Vacated Hearings*	57	16
Protective Custody Hearing	0	0
Hearing on Petition (Adjudicatory)	2	0
Dispositional Hearing	6	0
Semi-Annual Hearing	4	1
9 Month Review	1	0
12 Month Review	2	5
18 Month Review	3	3
24 Month Review	2	0
28 Month Review	0	0
32 Month Review	1	0
36 Month Review	0	1
Settlement Conference	13	2
Evidentiary Hearing ⁺	20	4
Other Hearing #1 ⁺⁺	3	0
Other Hearing #2 ⁺⁺	0	0

*Statistically significant difference (p < .05).
 Evidentiary hearings were not common events with only two being held in the Control Dependency group.
⁺Two Evidentiary hearings were started and continued in the Mediation Dependency group and subsequently vacated.
⁺⁺Other hearing types included Status Hearings or other type of hearing.
 Source: SJDC Court Case Files (2013–2016)

4. Do key events occur in a more timely fashion?

Timeliness Measures

While some timeliness measures related to court hearings were reported above, other important timeliness indicators in cases were also examined. Specifically, time measures were analyzed to ascertain the mediation program’s impact on the timeliness of other key events including parents’ first and last responses to dependency petitions, and the time it took from a child’s removal to

mediation being ordered and mediation being completed. Again, more time/days means the potential for delayed permanency for children.

Table 15, below, shows the median number of days for each for these events. It is interesting to note that mediated dependency cases generally took less time (specifically, 6 days) for mothers to respond to petitions (i.e, to admit, submit, or deny) than fathers. At least some of the extra time for fathers can be attributed to the fact that, in many of these cases, it took time to identify and/or locate the fathers and many of these fathers were either incarcerated at the time of petition filing or their whereabouts were initially unknown.

As noted in Table 15, the median number of days from a child’s removal to the point of mediation being ordered was 55 days which reflects the fact that most if not all court orders for mediation occur around the time of the 60-day adjudicatory hearing, when a parent or parents enter denials to dependency petitions. The median number of days for mediation to be completed was 76 days from removal which shows that when mediation sessions are held they are generally being held within three weeks of the mediation order date.

Table 15. Median Days to Petition Responses and Mediation Being Ordered/Completed		
	Mediation Dependency	Control Dependency
Total Cases	40	40
Median Days from Removal to:		
Mother's Initial Response	43 days	47 days
Father's Initial Response	49	53
Mother's Last Response	82	90
Father's Last Response	90	65
Mediation Ordered	55	–
Mediation Completed	76	–

Source: SJDC Court Case Files (2013–2016)

5. *What impact does mediation have on permanency plans?*

Permanency Plans

Permanency plans were examined to determine if there were any differences in the types of plans between the two groups and the frequency with which such plans changed. In general, it was anticipated that all or almost all dependency cases in both groups would begin with reunification as their initial or first permanency plan goal. As seen in Table 16, below, reunification was the initial permanency goal for almost all of the cases.

Among cases in the Mediation Dependency group, 38% (N=15) had documented concurrent plans. In concurrent planning, an alternative permanency goal (e.g., adoption) is pursued at the same time as reunification rather than being pursued sequentially after reunification is ruled out.¹⁶ In the Control Dependency group, 28% (N=11) of cases had concurrent plans.¹⁷

As also shown in Table 16, some cases experienced changes in their original permanency plans (generally, from reunification to TPR/Adoption), and the frequency of changed plans appears in the “Permanency Plan Two” section of the table. However, just because a plan changed at some point during the life of a case does not mean it could not change again. For example, some cases may have shifted from originally being reunification plans, to TPR/Adoption, and then back to reunification, depending on how the parent or parents responded to case plan/court order requirements.

	Number		Percentage	
	Mediation Dependency	Control Dependency	Mediation Dependency	Control Dependency
Total Cases	40	40	100%	100%
Permanency Plan 1				
Reunification	39	36	98%	90%
TPR/Adoption	0	3	0	8
Other*	1	1	3	3
Permanency Plan 2				
TPR	2	0	5%	0%
TPR/Adoption	11	13	28	33
Other*	4	0	10	0
Documented concurrent plans	15	11	38%	28%

Note: Percentages may not sum to 100% because of rounding.
 *Other permanency plans may have included APPLA, Guardianship, or another permanency plan option.
 Source: SJDC Court Case Files (2013–2016)

6. What types of mediation agreements result from mediation?

Mediation Agreements

Dependency (and TPR) mediation can result in three levels of agreement—full agreement, partial agreement, and no agreement. The levels or types of agreements reached in specific cases may differ between mothers and fathers. In general, and in the Dependency Mediation cases reviewed

¹⁶For more information on concurrent planning go to <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/concurrent/>.

¹⁷ While concurrent planning is required by federal law, it may not be consistently documented in court e-files.

for this study, the most common topics focused on in mediation involve contested or disputed issues surrounding the petition (i.e., how it is worded), placement (i.e., where a child may be placed out of home) and/or other issues (e.g., visitation, contacts between the child and relatives, etc.). Furthermore, it is possible that mediation sessions involve more than one issue or topic, though as shown below, the primary topic in the SJDC during the study period was clearly petition content/language.

Tables 17, 18, and 19, below, outline the different mediation topics, agreement types that were achieved by participants (i.e., mothers and/or fathers), and the median number of days, from removal, that it took to reach those agreements.

As shown in Table 17, below, a majority of the mediations that took place were because parents did not agree with how petitions were worded, while only a very small number of mediations focused on disputes surrounding a child’s placement. The numbers exceed 40 here because, again, some mediated cases had multiple topics to be resolved.

Table 17. Mediation Topics by Parent				
	Number		Percentage	
	Mother	Father	Mother	Father
Total cases	40	40	100%	100%
Petition	38	36	95	90
Placement	6	5	15	13
Other	1	1	3	3

NOTE: Topics sum to more than 40 because cases can have multiple topics to resolve.
Source: SJDC Court Case Files (2013–2016)

Table 18, below, shows that while a majority of parents who attended mediation reached some level of agreement (73% of mothers reached full or partial agreements compared with 58% of fathers), more mothers’ than fathers reached full agreements (70% versus 55%, respectively). Furthermore, when agreements were reached they were almost always full agreements with only one mother and one father reaching partial agreements in their dependency cases.

Table 18. Agreement Types by Parent				
	Number		Percentage	
	Mother	Father	Mother	Father
Total cases	40	40	100%	100%
Full	28	22	70	55
Partial	1	1	3	3
None	5	8	13	20
Not involved in mediation*	6	9	14	22

*This usually involved mothers or fathers who did not contest the petition/other issues or who, for example, could not be located.

Source: SJDC Court Case Files (2013–2016)

Table 19, below, presents another timeliness measure; in this instance, the median number of days from removal of a child to the day an agreement was reached at mediation.¹⁸ As illustrated, the findings indicate that mothers and/or fathers, when they reached some level of agreement, tended to do so in about the same time periods, while mediated cases in which no agreements occurred tended to take somewhat longer for mothers than for fathers.

Table 19. Median Number of Days from Removal to Agreement		
	Mother	Father
Total cases	40	40
Full	74	70
Partial*	162	162
None	87	73

* There was only one mother and one father who reached partial agreements in their cases.

Source: SJDC Court Case Files (2013–2016)

7. *Has there been a change in the rate of parent “no-shows” at mediation since 2014?*

Mediation Attendance

Following the preliminary outcome evaluation of the mediation program in the SJDC, conducted in 2013, important changes were made to improve parent attendance at mediation sessions. These changes largely took effect during the latter part of 2014 and into 2015. While the actual activities behind these changes would need further examination, the SJDC Family Service Program

¹⁸ Based on case file reviews, it appears that there were also at least some cases in which a parent who did not reach agreement at the time of mediation subsequently submitted to the petition after mediation was completed. Further analyses would be needed to determine to what extent these subsequent submissions were associated with or related to mediation.

Manager, the person who oversees the mediation program in Washoe County, indicated that the most important change involved parents’ attorneys taking a more active role to encourage their clients (parents) to attend mediation.

Table 20 and Figure 2, below, show the change in the frequency of parent no-shows over a period of more than 6 years. The data were obtained from an Excel spreadsheet maintained by the SJDC mediation program. In the SJDC, parent no-shows are defined as those events in which neither parent attends. If at least one parent attends, mediation sessions are generally held and the sessions are not coded as “no shows” (or “parties failed to appear”). The SJDC has been tracking parent attendance since program inception in September 2011. The data below cover the last 4 months of 2011 through calendar years 2012–2016 and the first 2 months of 2017. Numbers reflect combined attendance counts for dependency and TPR mediation sessions.

As indicated, the number of instances in which both parents failed to show for a mediation session has decreased over the past six-plus years, with the decrease particularly evident in the 2015 through 2017 period. This is an important performance indicator as the ability to consistently hold mediation sessions on time, combined with the fact that the majority of mediation sessions, when held, do result in agreements, helps the court avoid delays. In other words, the notable improvement in parent attendance at mediation sessions represents another positive attribute of the SDJC mediation program.

Table 20 Parent “No-Shows” at Mediation—Dependency and TPR Mediations Combined

Year	Total Mediations Held	% No-Shows (Both Parents)
2011 (Sept-Dec)	6	67%
2012	87	8
2013	92	14
2014	122	13
2015	117	6
2016	76*	5
2017 (Jan-Feb)	33	0

* The drop off in mediated cases that occurred in 2016 was confirmed by the SJDC Program Manager, but the reasons for the decrease were not readily known. That said, the mediation figures for the first two months of 2017 suggest the numbers are increasing again.

Source: SJDC Mediation Data Spreadsheet

Termination of Parental Rights (TPR) Cases

Like many states, the State of Nevada considers the termination of parental rights to be an extremely serious matter, referred to by some sources as tantamount to a “civil death penalty,” as it permanently severs a parents’ right to parent their child.¹⁹ Chapter 128 of Nevada Revised Statutes (NRS) lays out the specifics surrounding TPR cases in Nevada (<https://www.leg.state.nv.us/NRS/NRS-128.html>)

Not surprisingly, TPR cases can be some of the most contested matters to appear before the court. It is by no means a stretch to say that balancing the need for safe and timely permanency for the child with the preservation and strengthening of family life (NRS 128.005) represents an enormous challenge for the court, WCDSS, and others involved in these incredibly difficult cases. Mediation, however, can play an important role in helping to resolve issues that may delay safe permanency for children, especially when it has been determined by the court that previous reunification efforts have failed, that parents have been unable or unwilling within a reasonable time to substantially correct the circumstances, conduct or conditions which led to the placement of their child outside the home, notwithstanding reasonable and appropriate efforts to return the child to his or her home (NRS 128.0126).

As discussed earlier in the Methods section of this report, the Mediation TPR study group was selected using a systematic sampling method, from a listing of all TPR cases that had been filed with the court between 2013 and 2016. However, because TPR cases tend to remain open for longer periods than dependency cases, the sampling focused on mediated TPR cases filed between 2013 and 2015 in the hope that these cases could be “tracked” over extended periods versus newer cases that may not have reached key case processing and other stages (e.g., case closure) of interest to the analysis. As with the two dependency cohorts, the Mediation TPR sample resulted in selection of 40 cases that were the subjects of court case file reviews.

Mediation TPR Case Characteristics

As noted, the TPR component of this study had only one group—the Mediation TPR cohort—because there were no contested TPR cases that were not mediated, hence no valid control group was available. Forty Mediation TPR cases were reviewed and data were collected from court TPR (designated with “FV” case numbers) case files on the court’s Contexte automated information system. For TPR cases that had multiple children, one child was randomly selected for data

¹⁹ For example, see <http://caselaw.findlaw.com/nv-supreme-court/1077119.html>

collection. As with the dependency cohorts, a variety of information was collected pertaining to child characteristics, parent characteristics, case characteristics, and other key performance indicators and outcomes (see Appendix D for a blank copy of the TPR data collection form).

Table 21, below, displays some of the basic child characteristics data collected for this aspect of the study. As shown, children involved in TPR mediation matters were generally quite young, with a median age of 4.5 years. Male children outnumbered females (22 to 18, respectively). In terms of presenting problems, researchers were able to document that 10% (N=4) of the Mediation TPR group were born drug exposed (in all four cases, with methamphetamine in their blood at or shortly after birth) and 10% presented serious medical needs (e.g., broken bones from physical abuse, unmet essential medical needs due to neglect, medical problems tied to being born drug exposed, etc.), and 13% (N=5) exhibited serious mental health/developmental problems at the time their TPR cases were filed.²⁰

It should be emphasized that these percentages may indeed reflect an undercount of children’s presenting needs/problems as the TPR court files did not necessarily contain all of the historical CPS/child welfare data that appeared in the dependency court files. This may be a matter to be considered for future research.

TPR Child Characteristics

Table 21. Child Characteristics (Mediation TPR)		
	<u>Number</u>	<u>Percentage</u>
	Mediation TPR	Mediation TPR
Total Cases	40	100%
Median Age at Removal	4.5 years	
Gender		
Male	22	55
Female	18	45
Presenting Problem/Need		
Mental Health or Developmental	5	13
Medical	4	10
Born Drug Exposed	4	10

Source: SJDC Court Case Files (2013–2016)

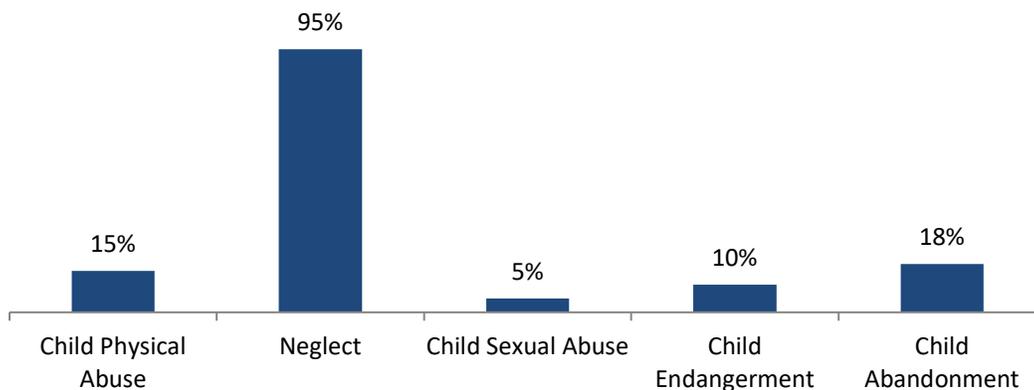
²⁰ There were only two ICWA cases in the Mediation TPR group.

TPR Parent Characteristics

As with the dependency case file reviews, several items in the TPR data collection form were created to capture a range of relevant information pertaining to parents. These included substantiated allegations, mothers' presenting needs/problems, fathers' presenting needs/problems, and other relevant data. As with some of the data presented in the dependency section of this report, instances in which percentages exceed 100% generally reflect the fact that many of these cases involved multiple substantiated allegations and many of these parents presented multiple needs and problems.

Figure 3, below, presents the distribution of different substantiated allegations found in the Mediation TPR group. Because these are TPR cases, the allegations shown in Figure 3 reflect the original substantiated allegations from the previous dependency cases associated with the selected TPR matters (i.e., the original dependency case for the same child that came before the TPR filing). The mediation TPR group showed a high percentage (95%) of original substantiated neglect allegations in previous dependency filings and, as a result of the parents not complying with prior dependency case plans and associated court orders (i.e., failing to meet the state standard for parental adjustment, among other factors), the state filed TPR petitions.

Figure 3. Substantiated Allegations (Mediation TPR)
N = 40



Source: SJDC Court Case Files (2013–2016)

By the time a case reaches the TPR stage, WCDSS social workers have generally documented a range of identified parent needs and problems. While, once again, this study did not involve thorough reviews of previous dependency case file information, available information in the court

TPR files did reveal some important characteristics. Figures 4 and 5, below, show the various needs and problems presented by mothers and fathers in the Mediation TPR group. Based on case file reviews, all 40 TPR cases involved mothers while 35 cases involved fathers with, as noted earlier, some of these case involving multiple fathers (and thus, 40 cases are used for study purposes).

As shown in the figures, substance abuse was the most commonly occurring issue among mothers (90%, N=36), and most often this involved methamphetamine abuse or addiction (further analysis would be required to ascertain more precise data in this regard). While the level of substance abuse was not as high for fathers, it remained the most prevalent presenting need/problem with 53% (N=21) of fathers exhibiting serious substance abuse issues (again, based on file reviews, most often this involved methamphetamine).

Parent incarceration (i.e., a parent being incarcerated for at least 24 hours at any point during the “life” of a TPR case) represented the second most prevalent parent characteristic in the TPR study group, with 33% (N=13) of mothers and 45% (N=20) of fathers experiencing periods of jail and/or prison during the time their TPR cases were open. For 25% (N=10) of mothers and 23% (N=10) of fathers, the court files also documented active criminal activity which generally included allegations/charges of drug trafficking, drug possession, criminal child abuse charges, probation or parole violations, and/or other behaviors that were often associated with periods of incarceration.

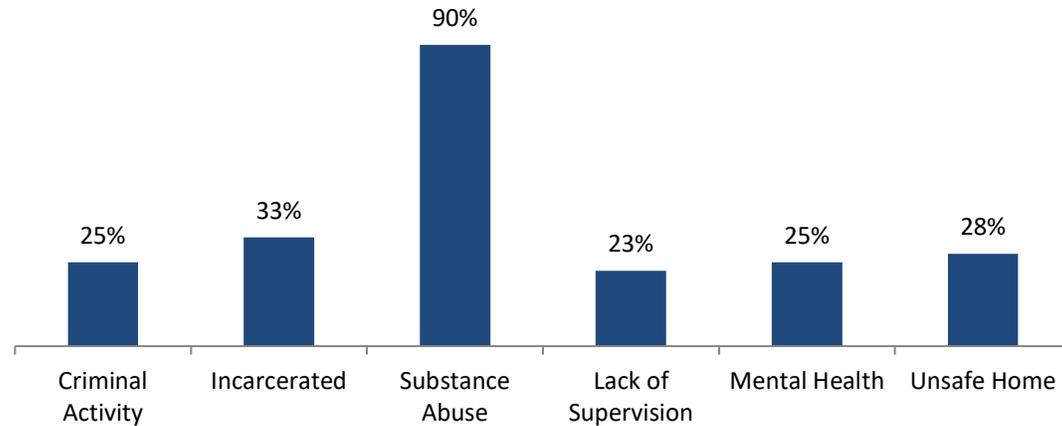
Unsafe homes represented a third prevalent category of parent/needs problems. For those parents who were not homeless at the time their TPR petitions were filed—an issue covered briefly later in this report—28% of mothers (N=11) and 18% of fathers (i.e., fathers who lived in residences separate from mothers, N=7) lived in settings that presented clear and present hazards to children (e.g., drugs and/or drug paraphernalia being within easy reach of children at the time of investigations or home visits, broken glass, access to sharp objects and utensils, etc.).

Unfortunately, these safety concerns were too often unrectified and, when combined with the myriad of other challenges and problems presented by these families, TPR petitions were filed.

Lastly, parent mental health issues were also prevalent in the Mediation TPR group with 25% (N=10 out of 40 cases) of mothers and 13% (N=5 out of 40 cases) of fathers exhibiting this characteristic. Once more, these types of needs/problems highlight the seriousness of TPR cases that go to mediation in the SJDC.

**Figure 4. Mother's Presenting Need/Problems
(Mediation TPR)**

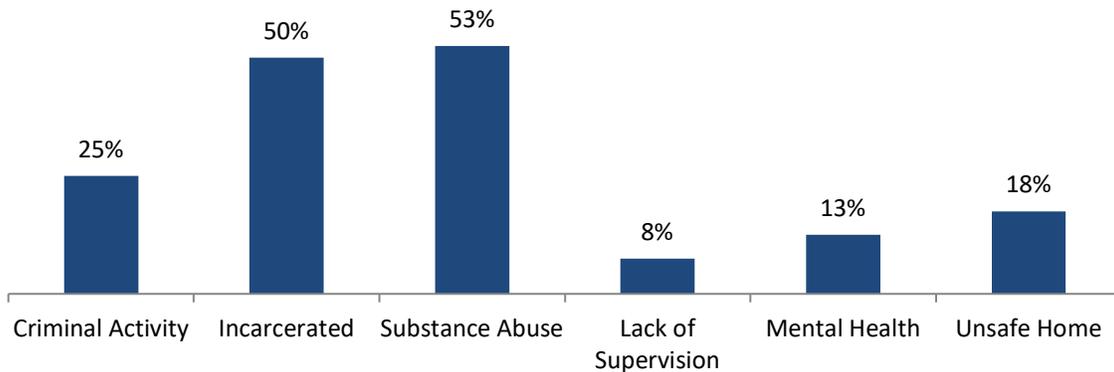
N = 40



Source: SJDC Court Case Files (2013–2016)

**Figure 5. Father's Presenting Need/Problems
(Mediation TPR)**

N = 40



Source: SJDC Court Case Files (2013–2016)

NOTE: Unlike mothers, not all cases had fathers (N=5) in the Mediation TPR control group, but the percentages shown in Figure 5 are still based on 40 cases.

Lastly, this study examined the prevalence of mediated TPR cases that involved multiple fathers, the “types” of fathers involved (biological, putative, or adoptive), and the VOCA victimization types and special classification categories associated with mediated TPR cases.

As shown in Figure 6, below, 25% (N=10) of the cases in the Mediation TPR study cohort involved multiple fathers. For 13% (N=5) of cases, it was not possible to identify fathers or the

fathers were deceased. The presence of multiple fathers in TPR matters is at least as complicating a factor as it is in dependency cases. For example, when TPR cases involve different fathers and multiple children, the court and the state (among others) may have to pursue TPR proceedings against each father as a separate matter and each of these matters may proceed along different paths (e.g., some may be contested and go to trials, and some may not). This may entail holding separate hearings as well as managing different aspects of different cases while still trying to focus on the best interests of and timely permanency for children. In other words, the presence of multiple fathers, along with all of the other parent/needs problems associated with these cases, adds even more complexity and time/work demands to these matters, especially if contested issues are not resolved outside of the formal court process.

Figure 6. Multiple Fathers (Mediation TPR)
N = 40

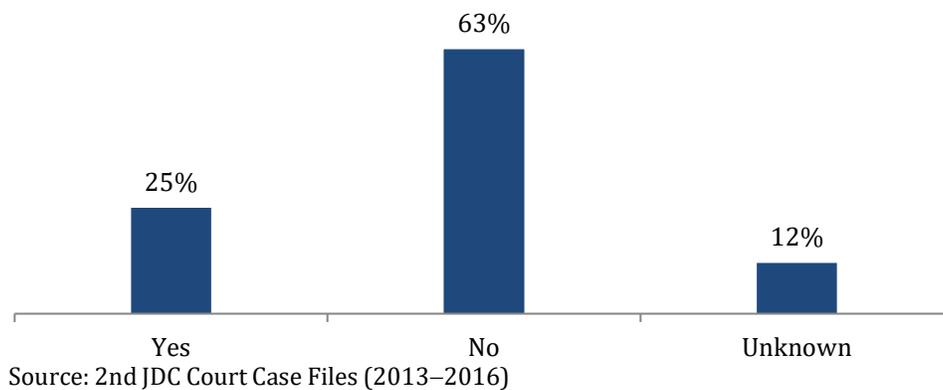
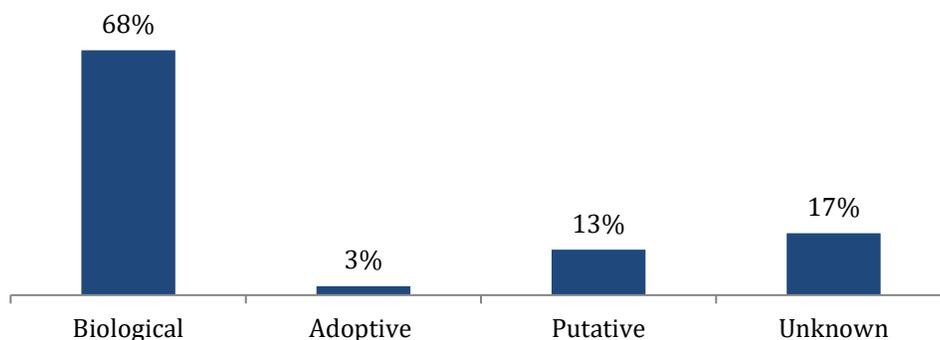


Figure 7, below, shows that over two-thirds (68%, N=27) of the fathers involved in the mediated TPR group and for whom parental rights were terminated, were biological fathers.

Figure 7. Types of Fathers (Mediation TPR)
N = 40



Source: 2nd JDC Court Case Files (2013–2016)

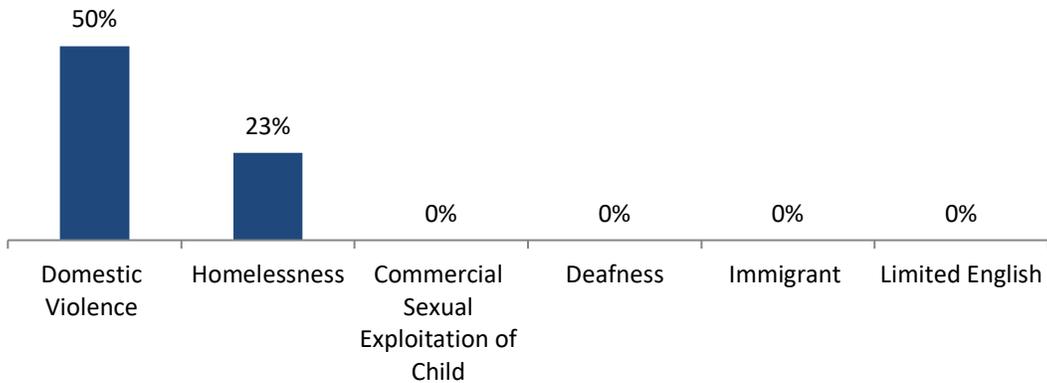
*Victims of Crime Act Victimization Types and
Special Classification Categories—Mediation TPR Group*

As with the dependency cohorts, the 40 Mediation TPR cases were also examined to determine how many cases exhibited different VOCA victimization types and special classification categories. Two characteristics stood out—domestic violence and homelessness. As shown in Figure 8, below, exactly half (50%, N=20) of the Mediation TPR cases had documented involvement with domestic violence during the time their TPR matters were active.

Homelessness was also frequent characteristic with 23% of the Mediation TPR group presenting documented periods of homelessness during the time these TPR cases were open. In these instances, it was not uncommon for at least one parent to experience multiple or extended episodes of homelessness at various stages during their cases.

The case file reviews did not reveal sufficient documentation of any other VOCA victimization types or special classification categories (e.g., commercial exploitation of children, immigration, limited English capabilities, etc.) in the Mediation TRP cohort though, again, that could be due to file content limitations.

**Figure 8. Victims of Crime Acts Characteristics
(Mediation TPR)
N = 40**



Source: SJDC Court Case Files (2013–2016)

TPR Case Outcomes and Performance Indicators

To evaluate the impacts of the mediation program on the selected TPR cases, several outcome measures and performance indicators were examined for this study. These case outcomes and performance indicators include case closures, court hearing impacts, timeliness measures, and the frequency and types of mediation agreements.

For the TPR cohort, unless otherwise indicated, the starting point for assessing case closures and timeliness measures is the date the TPR petition was filed with the court. All initial removal dates for children involved in these TPR cases preceded TPR filings (i.e., they occurred much earlier, during the previous dependency stages). However, in some of the timeliness data presented here, median days from time of original removal also are included to offer some perspective on just how long these cases can be system-involved.

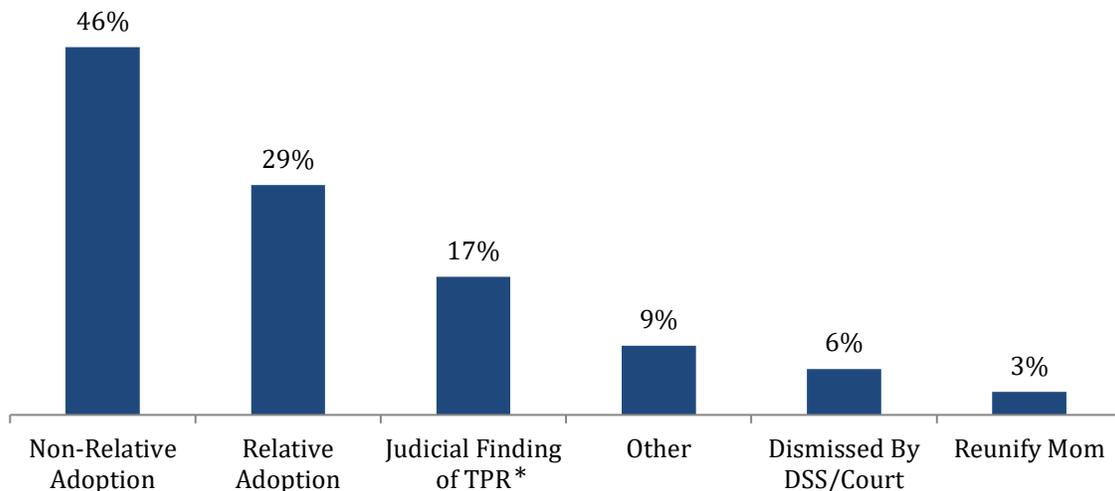
TPR Case Closures

To analyze case closures, two variables were studied; time from the filing of the TPR petition to case closure and the reasons for case closures. Overall, the analysis showed that 88% (N=35) of the TPR cases that went to mediation had closed by the time of the file reviews, allowing the researchers to examine TPR case closure time frames. As with the dependency cohorts, case closure was defined as a case being closed by the court in a written order and the child involved in the case having achieved permanency. However, as previously noted, the TPR aspect of this study did not involve a comparison TPR group so the results presented in this section only apply to the Mediation TPR cohort.

Figure 9 below shows the percentage of TPR cases closing by specific case closure outcome. As shown, roughly three-fourths (N=26 out of 35) of the TPR closed cases resulted in some form of adoption (non-relative or relative).

Overall, it was found that cases took a median of 319 days from the filing of the TPR petition to close a case and 772 days from a child’s original removal date to case closure. The analysis also found that it took a median of 160 days from the date mediation was held to case closure. Further analysis was run to determine if there were differences between each type of TPR case closure reason and the time that it took to close. In other words, the study attempted to get an initial sense of whether certain types of closure factors reflected longer case closure times than others. Table 22, below, presents these data.²¹

**Figure 9. Reasons for Case Closure (Mediation TPR)
N = 35**



*Note: 17% of cases (N=6) in the Mediation TPR group had a judicial finding of TPR in the case and the case was closed. However, case files did not document a reason for case closure (i.e., permanency outcome) in the case. As a result, coders could not code a case closure reason for these cases.
Source: 2nd JDC Court Case Files (2013 - 2016)

²¹ “Other” generally referred to a small number of cases (N=3) in which an adoption was pending but the case was closed by the court. Once again, the total percentages shown in Figure 9 exceed 100% because there were multiple reasons for closure in some cases. For example, there may have been a judicial finding of TPR for one parent but the other parent may have relinquished their parental rights.

Table 22. Median No. of Days to Case Closure by Case Closure Reason (Mediation TPR)

	From Child's Removal*	From Filing of TPR Petition	From Mediation Being Held
Total Cases	35	35	
Overall	772 days	319 days	160
Non-Relative Adoption	894	433	255
Relative Adoption	775	319	159
Judicial Finding of TPR**	782	461	239
Other***	520	363	160

*Removal refers to the child's date of removal from the parent(s) or caretaker's home that occurred during the previous dependency phase.

**Note: 17% of cases (N=6) in the Mediation TPR group had a judicial finding of TPR in the case and the case was closed. However, case files did not document a reason for case closure (i.e., permanency outcome) in the case. As a result, coders could not code a case closure reason for these cases.

***Other included 3 cases that appeared to be closed by the court but documentation as to the reasons for closure had not been placed in the file as of the date of data collection. These cases appeared to have adoption either finalized or pending but the actual adoption date had not been entered in the file at the time of the file reviews.

Source: SJDC Court Case Files (2013–2016)

Continued and Vacated TPR Hearings

The data collected from the TPR case files were analyzed to determine, at least initially, what impacts the mediation program in TPR cases has on court hearings. Specifically, for this first phase of analysis, and as also conducted in the dependency section of this report, the data were examined to identify the numbers of hearing continuances and vacated TPR hearings. It is important to note that TPR matters entail some different hearing types than dependency proceedings and not all of the cases analyzed for the study involved all of the different hearing types.

Table 23, below, presents these findings which reveal a total of 8 continued hearings in the Mediated TPR study group and 37 vacated court hearings. Once again, because there is no TPR control group, this study could not assess the possible impacts or relationships of mediation on these events.

Table 23. Number of Continued and Vacated Hearings (Mediation TPR)

	No. of Continued Hearings	No. of Vacated Hearings
Total Cases	40	40
Total Hearings Continued/Vacated	8	37
Initial Hearing on Petition	1	0
TPR Hearing Trial (Contested)	2	19
TPR Hearing Trial (Uncontested)	2	2
Settlement Conference	3	14
Evidentiary Hearing	0	2

Source: SJDC Court Case Files (2013–2016)

TPR Timeliness Measures

Timeliness was analyzed to ascertain the mediation program’s impacts on key events including the time from the filing of the TPR petition to court hearings being completed/held, and to mediation being ordered and completed. Table 24, below, shows the median number of days for each for these time measures. As it pertains to mediation, the median number of days from the filing of the TPR petition to mediation being ordered was 90 days and the median number of days from petition filing to completed mediations was 131 days. In other words, it took a median of 41 days from the date of TPR mediation being ordered to the date that mediation was held.

Table 24. Timeliness—Median Days from TPR Petition Filing to Key Events

Total Cases	40
Initial Hearing on Petition	87 days
TPR Hearing Trial (Contested)	282
TPR Hearing Trial (Uncontested)	236
Settlement Conference	167
Evidentiary Hearing	319
Mediation Ordered	90
Mediation Completed	131

Source: SJDC Court Case Files (2013–2016)

TPR Mediation Agreements

The study examined mediated TPR cases to understand the different types of agreements that were reached. Table 25, 26, and 27, below, display the different mediation topics, agreement

types achieved by mothers and fathers, and the median numbers of days from the filing of the TPR petition to the date agreements were reached.

As shown in Table 25, below, the vast majority (95%, N=38 for mothers and fathers) of TPR mediations involved parents contesting the petition itself (again, most often petition language), with fewer mothers (13%, N=5) contesting placement issues. Post-adoptive contact by parents was actually the second most frequently documented topic in mediated TPR cases, with 23% of mothers (N=9) and 28% (N=11) of fathers addressing this issue during mediation. Once again, the numbers shown in this table reflect all topics covered in mediations with some mediations involving multiple topics.

Table 25. Mediation Topics (Mediation TPR)				
	<u>Number</u>		<u>Percentage</u>	
	Mother	Father	Mother	Father
Total Cases	40	40		
Petition	38	38	95%	95%
Placement	5	6	13	15
Post-Adopt Contact	9	11	23	28
Source: SJDC Court Case Files (2013–2016)				

Table 26, below, shows the number of agreements for mothers and fathers, broken out by the types of agreements—Full, Partial, and None (and Not Applicable for 3 fathers who were not involved in cases and/or not ordered to TPR mediation). As depicted, TPR cases involving mothers were able to achieve full agreements in 58% (N=23) of the mediated cases while TPR cases involving fathers were able to reach full agreements in 54% (N=19) of the mediated cases. The rate of no agreement was similar for TPR cases involving mothers and for fathers, with 37% (N=15) of TPR cases involving mothers not able to reach an agreement, and 34% of TPR cases (N=12) involving fathers not able to reach an agreement.

Table 26. Agreement Types by Parents (Mediation TPR)				
	Number		Percentage	
	Mother	Father	Mother	Father
Total Cases	40	35	100%	88%
Full	23	19	58	54
Partial	2	1	5	3
None	15	12	37	34
Not Applicable	–	3	–	9

Source: SJDC Court Case Files (2013–2016)

Table 27 shows the median number of days from the date of the TPR petition filing to the date the mother and/or father reached agreement at mediation. As indicated, the time frames to agreements for mothers and fathers were fairly similar with only the “Other” category showing a difference of more than a few days.

Table 27. Median Days from TPR Petition Filing to Agreement		
	Mother	Father
Total Cases	40	35
Petition	137	132
Placement	115	–
Other*	115	205

*Other includes post adoptive contact.
Source: SJDC Court Case Files (2013–2016).

Table 28, below, indicates the median number of days from mediation being ordered to an agreement being reached. While there are some differences between mothers and fathers, it is important to remember that as illustrated in Table 25, most TPR matters focused on petition language and there were differences in the numbers of mothers and fathers (19 versus 14, respectively) who were involved in mediations about petition issues.

Table 28. Median Days from Mediation Ordered to Agreement		
	Mother	Father
Total Cases	40	35
Petition	40	28
Placement	25	–
Other*	36	28

*Other includes post adoptive contact.
Source: SJDC Court Case Files (2013–2016).

Discussion

Summary of Outcome Findings

This outcome study represents one of three evaluations of dependency and TPR mediation conducted in Nevada in 2017, the other two involving a process evaluation of the SJDC program and a process evaluation of the emerging Statewide Mediation Program (the two process evaluations appear in separate reports). The SJDC program has been the subject of evaluation and research for a number of years and has used research findings, especially as these relate to improving parental attendance at mediation, to enhance the positive impacts of the program.

This latest study expands on previous mediation research in the SJDC and sheds light on the serious challenges associated with these cases. While the study involved a systematic sampling procedure that produced very similar mediation dependency and control dependency comparison groups, the study also revealed that there may be some important differences between dependency cases that go to mediation and those that do not—more specifically; it appears that there may be some indications that cases ordered to mediation were more complex and, perhaps, had parents and children with a greater range of presenting problems and/or needs than non-mediated dependency cases.

When one considers the recent 5-year increases in dependency and TPR filings and combines those increases with the complicated and severe needs and problems evident in these cases, the need for mediation and other alternative dispute resolution options becomes even more apparent. The finding that mediation also is significantly associated with more vacated hearings lends further credence to its importance as a tool to manage the demands on the court. Without the option of mediation, it seems quite likely that many more of these cases would become contested matters or go to trial and, with that, the workload of the court and its partners would substantially magnify.

The fact that so many of the dependency cases in this study achieved reunification with one or both parents is remarkable given the circumstances that these families present. However, one important question that could not be answered by this study is just how safe and sustainable will these reunifications be in the longer-term. Future research, to the extent feasible, must continue to examine indications of system re-entry that could not be explored here.

While this study focused on a range of prioritized performance indicators and outcome measures related to the mediation program itself and the court, it did not involve a comprehensive analysis

of the very serious needs and problems of the children and families who are involved in these cases. While this study cannot say with certainty that the dependency cases ordered to mediation are more complex than those that are not ordered to mediation, there is preliminary evidence to suggest just that, as file review data tended to indicate that mediated dependency cases have more presenting needs/problems than non-mediated cases. However, to better understand the relationships among case complexities, mediation, and the impacts of these variables on case outcomes, further research is needed. As mentioned at the onset of this report, it is also important to view the mediation program within the context of what appears to be both rising demands related to dependency and TPR filings compounded by the dramatic complexity of these cases.

Limitations of the current study

While this study augments previous mediation studies in Nevada, there are important limitations to this latest assessment. These include:

- Data were primarily gathered from the court’s automated case files and, while these files generally contained the information sought, the content of the files varied somewhat across the study period;
- The absence of a TPR Control Group prevented comparisons of similar, contested TPR cases that did not experience mediation;
- The study was limited to the SJDC program and findings cannot be generalized to other jurisdictions;
- As noted above, this assessment was not able to examine how many cases came back into the child welfare system after case closure (i.e., system re-entry)—there are many complications associated with this task including difficulties associated with tracking such cases outside of the SJDC; and,
- As emphasized, while this study involved larger sample sizes and longer time periods than previous assessments in Nevada, it should be considered a first phase of analysis with important follow-up research (e.g., looking at placement-related data and other research questions not tackled here) anticipated over the next year or more.

Conclusion

A number of the findings of this study reaffirm some of those identified in the previous (2011 and 2013) analyses of the SJDC program. When taken in conjunction with the accompanying SJDC Dependency Mediation Program Process Evaluation (please see separate report), the benefits and importance of the program become even more evident, particularly within the context of the sharp increase (over 70%) in dependency case filings and the notable increase (up 17%) in TPR filings in the SJDC over the past five years. It is hard to imagine how the court could effectively manage its dependency and TPR caseloads without mediation and other alternative dispute resolution options.

Planning, designing and operating a successful dependency mediation program is a challenging task that involves bringing together the various child protection system stakeholders, obtaining judicial support, funding, and, in some cases, fostering a paradigm shift that creates greater collaboration between the stakeholders and participants, and a commitment by all to better include families in the decision-making process. While the SJDC mediation program continues to exhibit many strong attributes, positive impacts, and benefits, the challenges posed by these complex cases remain daunting. Based on the findings of this study, along with the growing body of research on dependency mediation in other jurisdictions, the SJDC Dependency Mediation program is playing an essential role in helping the court and its partners manage this difficult workload.

SJDC Mediation Program Outcome Evaluation: Key Findings

The outcome study revealed a number of important findings. The primary findings from the current study are outlined below, starting with a general summary of important case characteristics that illustrate the many challenges and complexities associated with dependency and TPR cases in the SJDC.

These findings indicated that:

General Case Characteristics

- Children in all three study groups tended to be very young;
- Neglect was the most frequent substantiated allegation in all three study groups though most cases had multiple allegations—the study also found that despite systematic sampling, more cases in the Mediation Dependency group involved allegations of child physical abuse;
- A substantial number of the young child victims in all three study groups were diagnosed with mental health disorders;
- A substantial number of cases in all three study groups involved multiple children with different fathers;
- In all three study groups, many of the parents exhibited serious substance abuse, particularly methamphetamine, along with substantial rates of domestic violence, parent incarceration, homelessness, and parent mental illness; and
- Despite systematic sampling and many similarities between the two dependency study groups, there were some important differences between the two groups to note. There were substantially more parents in the Mediation Dependency group who displayed multiple presenting need/problem areas compared with parents in the Control Dependency cohort. Similarly, parents in the Mediation Dependency cohort had more of the needs/problems identified within the categories that are part of the Victims of Crime Act (VOCA) reporting requirements. These are important factors to keep in mind as they may reflect indications of greater case complexity in the Mediation Dependency group.

Mediation Dependency Cases: Key Performance and Outcome Findings

- The median days from removal to disposition hearing was significantly shorter for Mediated dependency cases (half of cases reached disposition within 56 days) than for non-mediated cases (half took longer than 78 days to reach the disposition hearing).
- Slightly more Mediated than non-mediated dependency cases achieved permanency (i.e., reunification, adoption, guardianship, or another permanency outcome resulting in case closure).
- Mediated dependency cases were more likely to close and achieve permanency due to adoption (31%) compared with the non-mediated dependency group (23%).
- Although slightly fewer Mediated dependency cases (6 in 10) than non-mediated dependency cases (7 in 10) closed as a result of reunification, Mediated dependency cases were more likely to result in reunification with *both* parents (1 in 3 versus 1 in 6).
- Mediated dependency cases achieved permanency and closure (regardless of permanency outcome) 11 days earlier on average than non-mediated dependency cases.
- Mediated dependency cases that achieved permanency by reunification with *both* parents took substantially less time (half were closed in 218 days or less) than non-mediated cases that resulted in reunification with *both* parents (half took 309 or more days to close).
- Cases that reunified with only one parent (mother or father) took longer to close than those that reunified with both parents. This was true for both Mediated and non-mediated dependency cases, although non-mediated dependency cases were more likely to result in reunification with only one parent (nearly 6 in 10 compared with fewer than 3 in 10 for Mediated dependency cases).
- Parent attendance at mediation (i.e., at least one parent attending) has improved dramatically over the past 6 years, with 95% of mediations having a parent attend in 2016 and 100% of mediations having a parent attend in the first 2 months of 2017 (the end of the study period).
- Dependency mediations occurred early in cases, taking a median of 76 days from the date of a child's removal in a dependency matter to the date of the mediation.
- A majority of parents who attended dependency mediation reached at least partial agreements (73% of mothers and 58% of fathers), though more mothers than fathers reached full agreements. (70% versus 55%, respectively).
- Mediated dependency cases were associated with a much higher number of vacated hearings (N=65) than the control group (N=12). This finding was statistically significant, indicating that mediation had a positive impact. Many of these vacated hearings were contested matters that would have placed additional burdens on the court docket if not vacated.

Other key findings included:

- The median child ages at petition filing for the Dependency Control and Mediation Dependency groups were 5.6 years and 4.8 years, respectively, and 4.5 years for the Mediation TPR study cohort—these median ages indicate that, generally, children involved in the study were quite young;
- Neglect was the most frequent substantiated allegation in all three study groups, with 90% (N=36) of the Control Dependency, 75% (N=30) of the Mediation Dependency, and 95% (N=38) of the Mediation TPR group exhibiting this case characteristic—very few of these cases involved substantiated allegations of child sexual abuse (i.e., just 3% for the Control Dependency group, and 5% for both the Mediation Dependency and Mediation TPR groups)—however, it should be emphasized that many cases had multiple substantiated allegations;
- Physical abuse was also a prominent substantiated allegation appearing in 18% (N=7) of the Control Dependency, 40% (N=16) of the Mediation Dependency, and 15% (N=6) of the Mediation TPR study groups;
- Child abandonment or endangerment were also common substantiated allegations, found in 26% (N=10) of the Control Dependency, 16% (N=6) of the Mediation Dependency, and 18% (N=7) of the Mediation TPR group cases;
- Despite systematic sampling and many similarities between the two dependency study groups, this study found that there were substantially more parents in the Control Dependency group with only one presenting need/problem documented in court files compared to parents in the Mediation Dependency cohort (i.e., more often, parents in the Mediation Dependency group had multiple needs/problems documented in files), with a similar finding for needs/problems identified within the Victims of Crimes Act categories - this is an important factor to keep in mind as it may reflect indications of greater case complexity in the Mediation Dependency group;
- While this study involved a limited analysis of the problems and needs of children involved in these cases, the study did find that one-fourth of the children in the two dependency cohorts and 13% in the Mediation TPR group exhibited confirmed, diagnosed mental health/developmental problems at young ages;
- The study found that 30% of the two dependency group cases and 25% of the TPR cases involved multiple fathers—the presence of different adult males (most often due to multiple siblings) magnifies the challenges faced by the court, the mediation program,

CPS/DCFS, and others in attempting to achieve safe and timely permanency for abused and neglected children;

- The high incidence of serious substance abuse among parents (for example, more than 90% of mothers in the Mediation TPR group and 70% of mothers in the Control Dependency cohort), particularly for methamphetamine abuse and addiction, along with substantial rates of domestic violence, parent incarceration, homelessness, and parent mental illness, further amplifies the difficulties associated with these matters;
- Cases were compliant with mandated timeframes to achieve the first permanency hearing—both the Control Dependency and Mediation Dependency groups met the ASFA (and NRS 328B) time requirements for holding 12-month permanency hearings in almost all cases included in the study (Medians = 361 and 362 days, respectively);
- For the TPR Mediation group, it took a median of 90 days from TPR petition filing to mediation being ordered by the court, a median of 131 days from petition filing for mediation to be completed, and a median of 40 days from mediation being ordered to agreement being reached;²² and,
- For mediated TPR cases, it took a median of 319 days from the filing of the TPR petition for those cases to reach case closure.

Recommendations for Continued Evaluation and Program Improvement in the SJDC

1. *The SJDC should consider initiating strategic program planning with its key partners to identify mediation program areas that may be further strengthened to address the complexities associated with dependency and TPR cases.* Given the identified levels of multiple and serious needs/problems across dependency and TPR cases, along with the recent five-year increases in dependency and TPR filings in the SJDC, it may be advisable for the court, its key partners, and community members to further examine persistent challenges that can impact mediation program performance and outcomes. Issues pertaining to serious parent substance abuse, parent incarceration, domestic violence, and other areas identified in this phase one study, seem particularly relevant in this regard. The SJDC program has demonstrated a strong commitment to improve its performance since 2011 (e.g., the dramatic improvements in parent attendance at mediation), and the serious difficulties associated with so many of the cases involved in mediation adds further impetus for continuous quality improvement efforts.

²² The 90-day timeframe for mediation in TPR matters is set by the court.

2. ***Examine options for continuing to or increasing the use of mediation across the “life” of a case.*** The findings of this study suggest that mediation, in both dependency and TPR matters, has positive effects on a number of key events. Once more, with the recent increases in dependency and TPR filings in the SJDC, having mediation even more available may offer additional benefits.
3. ***Take steps to improve the mediation program’s internal automated data and case tracking capabilities.*** Nevada dependency and TPR mediation have been the subjects of repeated analyses over the past five-plus years, reflecting an exceptional commitment to and support for ongoing outside evaluation of not only the SJDC mediation program but also mediation throughout the state. While outside program evaluation has important merits, mediation program administration should also look at how to enhance internal capabilities to track program performance and outcomes. The first step, perhaps, could focus on helping the state promote Continuous Program Quality Improvement or CQI efforts.²³
4. ***To obtain a comprehensive picture of the impact mediation is having on dependency case outcomes, additional evaluation research that builds upon the current study is needed.*** Continued research of the impacts of the SJDC juvenile dependency mediation program on case outcomes should be undertaken. This would involve using the listing of program evaluation research questions to prioritize which questions could be addressed in the next phase of analysis. Because the current evaluation of the SJDC’s mediation program collected additional data that are not covered in this report, a first step could involve some or all of the following areas of analysis:
 - a. Examining the impacts of various case characteristics on key performance measures and case outcomes – this could start with multivariate/regression analyses of characteristics that may include parent needs/problems and VOCA victimization types and special classification categories;
 - b. Assessing the extent of case plan compliance in dependency mediation cases vs. a control group of non-mediated cases (e.g., the extent of parent case plan compliance at the six-month review hearing and 12-month permanency hearing stages);

²³ In addition to state level enhancements, there may also be workable options in the SJDC where program administration uses Excel to track mediation cases. It may be possible to implement workable enhancements to the SJDC’s Excel database with an eye toward improving the program’s internal capabilities to track cases, key performance indicators, and outcome measures. Enhancements might also include more automated “real time” charts, reports, and/or tables that capture key performance and outcome data.

- c. Comparing mediated and non-mediated cases on child placement histories, placement stability indicators, and related cost factors;
- d. Examining the differences between mediated and non-mediated cases in compliance with additional ASFA and NRS time requirements (e.g., the timeliness of first permanency hearings, the timeliness of filing of TPR petitions);
- e. Studying mediation in TPR cases further by developing a SJDC TPR control group to compare to mediated TPR cases (this would require drawing a sample of TPR cases for analysis that closed prior to the inception of the mediation program); and,
- f. Analyzing the possible cost benefits associated with mediation. For example, the Nevada CIP office estimates that the statewide dependency mediation program is costing \$274 per child. Future analyses could examine this estimate in relation to likely savings achieved through reductions in court hearings and perhaps other variables.

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Appendix A

Dependency Mediation Program Protocol

Domestic Violence Screening Protocol

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

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

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

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

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

STRUCTURE FOR SCREENING INTERVIEW OF PARTIES IF NEEDED

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

GUIDELINES FOR THE SCREENING INTERVIEW

- Observe each party's behavior during the interview.
- Preface screening with reassurance to reduce awkwardness.
- A policy of confidentiality consistent with applicable statutes and court rules should be explained to the parties, as well as the goals & process of mediation.
- Identify each party's ability to negotiate, practices of abuse, coercion and threats by a party. Give victim the opportunity to express concerns about participating in the mediation jointly.
- Participants should be assured that participation in the screening process fulfills the requirement for court ordered mediation.
- Do not make judgments about allegations of abuse. The mediator's role is to determine whether the case is appropriate for mediation with both parties present or at different times, or if the case is appropriate for mediation.

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

Day One: 8:00—5:00

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

- CIP, myself, any other
- Ice Breaker

8:30-9:00 Training Goals

- Training Style
- Expectations

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

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

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

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

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

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

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

- What is mediation?
- Difference between mediation and arbitration
- Characteristics/principles of mediation
 - Benefits, disadvantages and case types
 - Role and characteristics of mediators
 - Core concepts of mediation

2:00-2:30 **MEDIATION PROCESS AND TECHNIQUES**

- Snapshot
- Dependency Mediation Forms

2:30-2:45 **15 MINUTE BREAK**

2:00-4:50 **MEDIATION PROCESS AND TECHNIQUES, STAGE I**

- Preliminary Arrangements
 - Mediator Preparation
 - Mediation environment (video—Game of Thrones)

MEDIATION PROCESS AND TECHNIQUES, STAGE II

- Introduction
 - Greetings & welcome
- Orientation of parties (exercise)
 - Confidentiality
- Mediator remarks

MEDIATION PROCESS AND TECHNIQUES, STAGE III

- Party openings
 - Listening techniques (exercises)

4:50-5:00 **SUMMARY/FEEDBACK**

5:00 **ADJOURN**

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

Day Two: 8:00—5:00

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

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

- Summarizing

MEDIATION PROCESS AND TECHNIQUES STAGE IV

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

MEDIATION PROCESS AND TECHNIQUES STAGE V

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

9:25-9:30

HOW TO ROLE PLAY/COACHING

9:30-10:30

ROLE PLAY #1

10:30-10:45

15 MINUTE BREAK

10:45-11:15

ROLE PLAY DEBRIEF

11:15-12:00

MEDIATION PROCESS AND TECHNIQUES, STAGE V CONT'D

- Clarifying Information and Managing Intensity
 - Acknowledging
 - Reframing

12:00-1:00

ONE HOUR LUNCH (lunch provided)

1:00-2:30

MEDIATION PROCESS AND TECHNIQUES, STAGE V CONT'D

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

2:30-2:45

15 MINUTE BREAK

2:45-4:50

ROLE PLAY #2 AND DEBRIEF

4:50-5:00

SUMMARY/FEEDBACK

5:00

ADJOURN

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

Day THREE: 8:00—5:00

- 8:00-8:15 **QUICK REVIEW/QUESTIONS**
- 8:15-10:15 **MEDIATION PROCESS AND TECHNIQUES, STAGE VI**
- Option Generation
 - Brainstorming options (exercise)
 - Option selection techniques
- 10:15-10:30 **15 MINUTE BREAK**
- 10:30-11:30 **MEDIATION PROCESS AND TECHNIQUES, STAGE VII**
- Reality testing
 - Evaluation strategies (exercise)
 - Range of possible outcomes
- MEDIATION PROCESS AND TECHNIQUES, STAGE VIII**
- Drafting agreements
- 11:30-12:00 **CAUCUS: A SEPARATE MEETING**
- 12:00-1:00 **ONE HOUR LUNCH (lunch provided)**
- 1:00-2:30 **ISSUES SPECIFIC TO DEPENDENCY MEDIATION**
- Parties
 - Whom to expect/unexpected
 - Bias & Cultural Considerations
 - Tips for mediating large groups
- 2:30-2:45 **15 MINUTE BREAK**
- 2:45-4:50 **ROLE PLAY #3 & DEBRIEF**
- 4:50-5:00 **SUMMARY/FEEDBACK**
- 5:00 **ADJOURN**

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

Day FOUR: 8:00—5:00

- 8:00-8:15 **QUICK REVIEW/QUESTIONS**
- 8:15-10:15 **STAGE IX: CLOSURE**
- Next steps
 - Paperwork
- STAGE X: EVALUATION**
- Evaluating Session/Debriefing (exercise)
 - Acceptance; De-stressing
- FINDING YOUR MEDIATION STYLE**
- 10:15-10:30 **15 MINUTE BREAK**
- 10:30-12:00 **SPECIAL ISSUES IN DEPENDENCY MEDIATION**
- Attorneys
 - Impasse
 - Power imbalance
 - High conflict
 - Neuroscience: conflict and the brain
 - Domestic Violence
- 12:00-1:00 **ONE HOUR LUNCH (lunch provided)**
- 1:00-3:30 **ROLE PLAY #4**
- 3:30-3:45 **15 MINUTE BREAK**
- 3:45-4:50 **MEDIATION ETHICS**
- 4:50-5:00 **SUMMARY/FEEDBACK**
- 5:00 **ADJOURN**

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

Day FIVE: 8:00—5:00

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

Appendix C

Statewide Juvenile Dependency Confidentiality Agreement

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

IN AND FOR THE COUNTY OF WASHOE

Juvenile Dependency Mediation

Confidentiality Statement and Agreement to Mediate

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

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

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

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

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

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

IN AND FOR THE COUNTY OF WASHOE

Juvenile Dependency Mediation

Confidentiality Statement and Agreement to Mediate

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

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

Case Number

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

Mother (Date) Mother's Attorney (Date)

Father (Date) Father's Attorney (Date)

Social Worker (Date) Social Worker (Date)

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

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

CASA (Date) Child (Date)

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

Appendix D

SJDC Dependency Case File Review Form

2nd JDC Case File Review Dependency Cases (updated 5/15/17)

Date Coded: _____

Coded by: _____

1. **Sample Group - Dependency**

Control Dependency Mediation Dependency

2. **Case File Number**

3. **Petition Filing Date (MM/DD/YYYY)**

4. **Date of Birth (MM/DD/YYYY)**

5. **Biological Gender of Child**

Male Female

6. **Hearings Held/Attendance** (*Timeliness measure - to be compared to Removal Date*)

	Month	Day	Year	Mother Attend		Father Attend	
Protective Custody Hearing	___	___	___	Yes	No	Yes	No
Hearing on Petition (Adjudicatory)	___	___	___	Yes	No	Yes	No
Dispositional Hearing	___	___	___	Yes	No	Yes	No
Semi-Annual (6 mo.) Review Hrg.	___	___	___	Yes	No	Yes	No
___-Month Permanency Review Hrg.	___	___	___	Yes	No	Yes	No
___-Month Permanency Review Hrg.	___	___	___	Yes	No	Yes	No
___-Month Permanency Review Hrg.	___	___	___	Yes	No	Yes	No
___-Month Permanency Review Hrg.	___	___	___	Yes	No	Yes	No
___-Month Permanency Review Hrg.	___	___	___	Yes	No	Yes	No
Settlement Conference	___	___	___	Yes	No	Yes	No
Evidentiary Hearing	___	___	___	Yes	No	Yes	No
Other: _____	___	___	___	Yes	No	Yes	No

NOTE: There may be Permanency hearings in between the six-month intervals and/or at shorter intervals. Also, include documented Settlement Conferences, Status Hearings, Evidentiary Hearings, etc., in Other section as applicable.

7. <u>Hearings Continued/Vacated</u>	Number continued	Number vacated
Protective Custody Hearing	_____	_____
Hearing on Petition (Adjudicatory)	_____	_____
Dispositional Hearing	_____	_____
Semi-Annual (6 mo.) Review Hearing	_____	_____
___-Month Permanency Review Hearing	_____	_____
___-Month Permanency Review Hearing	_____	_____
___-Month Permanency Review Hearing	_____	_____
___-Month Permanency Review Hearing	_____	_____
___-Month Permanency Review Hearing	_____	_____
Settlement Conference	_____	_____
Evidentiary Hearing	_____	_____
Other: _____	_____	_____

8. **Is Father for this child Biological, Adoptive or Putative?** Biological Adoptive Putative

9. **Does this case involve multiple fathers?** Yes No

NOTE: While, generally, we are focusing on the father listed on the petition for the selected child, many of these cases have multiple fathers and these other fathers may have significant impacts on the case/child. We will have to determine how to best code the data items related to Fathers in instances in which there are multiple fathers.

NOTE: For items 11. & 12., use the Father listed on Petition.

10. **ICWA Case?**

Yes No

11. **Initial Response to Petition Filing (Leave blank if unable to determine)**

Mother Admit Submit Deny Default Date: _____

Father Admit Submit Deny Default Date: _____

12. **Last Response to Petition Filing (Last response noted in file – if response changed from initial response)**

Mother Admit Submit Deny Default Date: _____

Father Admit Submit Deny Default Date: _____

13. Check all substantiated allegations

Child physical abuse

Neglect

Child Sexual abuse

Other:

14. Mother's Alleged Presenting Needs and Problems (Check any that apply)

Criminal Activity

Parent Incarcerated Substance Abuse

Lack of Supervision Mental Health

Unsafe Home (unmitigated hazards in the home that are documented)

Other:

15. Father(s) Alleged Presenting Needs and Problems (Check any that apply)

NOTE: This is one item that may involve data entry for multiple fathers (e.g., biological, adoptive, and/or putative fathers, for example). Basic rule here is if there are multiple "fathers" check all of the presenting problems that affect the selected child regardless of which father – the focus is on the impact on the child.

Criminal Activity

Parent Incarcerated Substance Abuse

Lack of supervision Mental Health

Unsafe Home

Other:

16. VOCA Child Victim Characteristics/Special Needs (use the "case" as the reference plus use Other to add other needs of the child/subject, not limited to VOCA categories)

Sexual Assault

LGBT

Domestic Violence

Limited English

Commercial Sexual Exploitation of Child

Other: _____

Deafness

Homelessness

Immigrant

17. Mediation Ordered/Completed (MM/DD/YYYY) NOTE: Record multiple Mediation events, as applicable.

a. Date Court Ordered 1st Mediation: _____
 Date Court Ordered 2nd Mediation: _____

b. Date 1st Mediation Completed: _____

c. Date 2nd Mediation Completed: _____

d. Mediation Agreement (if multiple mediation events/agreements, record as applicable)

<u>1st Mediation: Agreements reached as to:</u>		<i>Mother</i>			<i>Father</i>			
Petition	n/a	Full	Partial	None	n/a	Full	Partial	None
Placement	n/a	Full	Partial	None	n/a	Full	Partial	None
Other: _____	n/a	Full	Partial	None	n/a	Full	Partial	None

<u>2nd Mediation: Agreements reached as to:</u>		<i>Mother</i>			<i>Father</i>			
Petition	n/a	Full	Partial	None	n/a	Full	Partial	None
Placement	n/a	Full	Partial	None	n/a	Full	Partial	None
Other: _____	n/a	Full	Partial	None	n/a	Full	Partial	None

20. Case Plan Compliance

	Mother			Father		
At Semi-Annual (6 mo.) Review	Full	Partial	None	Full	Partial	None
At Case Closure	Full	Partial	None	Full	Partial	None

21. **Permanency Plan Goals** (list chronologically)
1. _____
 2. _____
 3. _____

At any point, was there a concurrent permanency plan? Yes No

22. Case Closed or Still Open?

(NOTE: look at Craig's listing for "DISPOSED" or "DISP/FINAL" and confirm that those are indeed "closure" dates – if there are any further court hearings or actions taken by the court, on the same petition, after the date listed on Craig's listing, then the case is probably not closed.)

If closed, enter closed date: Month Day Year

23. Reason for Case Closure (circle more than one if applicable)

Reunification with Mother	Emancipation	Default-Mother
Reunification with Father	Guardianship – Relative	Default-Father
Reunification with Both Parents	Guardianship- Non Relative	Default-Both Parents
Adoption – Relative	Case Voluntarily Dismissed by DSS/Court	Relinquishment-Mother
Adoption – Non Relative	Death of Child	Relinquishment-Father
Adoption-Fictive Relative		Relinquishment-Both Parents

Other (Specify):

If case still open, enter most recent permanency plan goal: _____

Reason case still open: _____

NOTE: Reason case still open should be specified in file. May be something like "Pending Adoption," etc.

24. **Was a subsequent petition filed after case closure?** (within 1 year of case closure) Yes No

Appendix E

SJDC TPR Case File Review Form

2nd JDC Case File Review TPR Cases (Revised 5/15/17)

Date Coded: _____

Coded by: _____

1. Sample Group – TPR Mediation TPR

2. Case File Number *NOTE: In earlier years, all children may have same case number.*

3. TPR Petition Filing Date (MM/DD/YYYY)

4. Date of Birth (MM/DD/YYYY)

5. ICWA Case: Yes No

6. Biological Gender of child Male Female

7. Hearings Held/Attendance

NOTE: If separate hearings on different dates (e.g., one for mother, one for father), please enter separate hearing under applicable hearing type.

	Month	Day	Year	Mother Attend		Father Attend	
Initial Hearing on TPR Petition	___	___	___	Yes	No	Yes	No
TPR Hearing (Trial) Contested	___	___	___	Yes	No	Yes	No
TPR Hearing (Trial) Uncontested	___	___	___	Yes	No	Yes	No
Settlement Conference	___	___	___	Yes	No	Yes	No
Evidentiary Hearing	___	___	___	Yes	No	Yes	No
Other: _____	___	___	___	Yes	No	Yes	No

NOTE: For continued and vacated hearings, simply count the frequency of each for each hearing type.

8. <u>Hearings Continued/Vacated</u>	Number continued	Number vacated
Initial Hearing on TPR Petition	_____	_____
TPR Hearing (Trial) Contested	_____	_____
TPR Hearing (Trial) Uncontested	_____	_____
Settlement Conference	_____	_____
Evidentiary Hearing	_____	_____
Other: _____	_____	_____

9. **Is Father for this child Biological, Adoptive or Putative?** Biological Adoptive Putative

10. **Does this case involve multiple fathers?** Yes No

11. **Initial Response to TPR Petition Filing** (Leave blank if unable to determine)

Mother Contest /Deny Not Contest Default Unable to determine Date: _____

Father Contest/Deny Not Contest Default Unable to determine Date: _____

NOTE: In some cases, Father may be unknown or may not be identified until later in case file. Enter first response from identified father here.

12. **Last response to TPR Petition Filing.**

Mother Contest /Deny Not Contest Default Unable to determine Date: _____

Father Contest/Deny Not Contest Default Unable to determine Date: _____

Other action taken by the Court? (e.g., Petition Voluntarily Dismissed by Court/DSS): _____

13. **Check all substantiated allegations**

Child physical abuse

Neglect

Child Sexual abuse

Other:

14. **Mother's Alleged Presenting Needs and Problems** (Check any that apply)

Criminal Activity Parent Incarcerated Substance Abuse

Lack of Supervision Mental Health

Unsafe Home (

Appendix F

SJDC Mediation Case Data Sheet

Mediator's Name: _____ APPOINTMENT DATE: _____

Case Preparation time: _____ APPOINTMENT TIME: _____

**DEPENDENCY MEDIATION SERVICES
CASE DATA
FAMILY SERVICES PROGRAM**

Unity Number _____ Case Number _____ Dept. # _____

Previous Mediation? Yes No

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

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

Siblings? YES / NO How many are a Party to this case? _____ How many are Not? _____

Mediation: Ordered by Court Requested by party Other

FOCUS OF MEDIATION:

<input type="checkbox"/> Jurisdiction	<input type="checkbox"/> petition language	<input type="checkbox"/> services for children & parents
<input type="checkbox"/> visitation	<input type="checkbox"/> placement	<input type="checkbox"/> education issues
<input type="checkbox"/> reunification plans	<input type="checkbox"/> permanency plans	<input type="checkbox"/> dismissal orders
<input type="checkbox"/> TPR	<input type="checkbox"/> post-adoption contact	<input type="checkbox"/> post-guardianship contact
<input type="checkbox"/> other: _____		

SPECIAL INSTRUCTIONS: _____

Next Court Date: _____

Mediator's Use Only **START TIME:** _____ **END TIME:** _____

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

Settlement Conference _____ Trial/Evidentiary Hearing # of days _____

OUTCOME: AGREEMENT **Written / Verbal (Circle)** _____

PARTIAL AGREEMENT **Written / Verbal (Circle)** _____

NO AGREEMENT REACHED

PARTIES FAILED TO SHOW

OTHER _____

FOLLOW-UP MEDIATION SCHEDULED:

YES NO

DATE _____ TIME _____

Appendix G—Annotated Bibliography

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

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

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

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

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

The Essex County Child Welfare Mediation Program was developed through a collaborative relationship among the Superior Court of New Jersey, Family Division, the Association for Children of New Jersey, the New Jersey Court Improvement Project, and

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

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

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

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

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

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

This initial assessment of the mediation pilot program in King County, WA examined the implementation of early stage case mediation. The program was developed to help the court improve case processing efficiency and reduce judicial workloads. Twenty-two mediated cases were compared with 28 randomly selected non-mediated cases in order to ascertain differences in case timeliness, frequency of continuances, the number of hearings, and agreement rates. Preliminary results indicated that mediation improved the efficiency of case processing. Directions for future research on efficiency and judicial workloads were also discussed.

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

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

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

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

reunification. Parents and system stakeholders were satisfied with mediation and the majority of mediated cases ended in either partial or full agreement.

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

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

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

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

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

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

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

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

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

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

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