

2017

RESEARCH REPORT  
PROCESS EVALUATION OF THE  
SECOND JUDICIAL DISTRICT COURT'S  
DEPENDENCY MEDIATION PROGRAM,  
WASHOE COUNTY, NEVADA



RESEARCH REPORT

**PROCESS EVALUATION OF  
THE 2<sup>ND</sup> JUDICIAL DISTRICT COURT'S  
DEPENDENCY MEDIATION PROGRAM,  
WASHOE COUNTY, NEVADA**

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# Executive Summary

The Second Judicial District Court of Nevada in Washoe County (SJDC) implemented a mediation program in late 2011 to support parents and stakeholders in the child abuse and neglect court system and help resolve contested matters that may delay or inhibit timely permanency. An 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 to address case issues and identify available options with the help of an impartial third party. Previous research in Nevada and in 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 in a non-adversarial manner (i.e., reunification, timeliness of permanency).

The National Council of Juvenile and Family Court Judges (NCJFCJ) has conducted previous research on the impacts of dependency mediation programs 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 to non-mediated cases and that fathers who participated in mediation were present at more court hearings compared to fathers who did not participate.

For the current study, the Nevada Administrative Office of the Courts (AOC) elected to contract with NCJFCJ again to conduct updated process evaluations that include assessments of participant and stakeholder satisfaction with mediation programs in the SJDC and in what is commonly referred to as the "statewide" mediation program operating in all of Nevada's other counties. The SJDC (Washoe County) served as the pilot site for the implementation of the statewide mediation program.

This report focuses on satisfaction measures and related information about the mediation process in the SJDC. A separate report presents results from the statewide dependency mediation program process evaluation. A third report presents an updated outcome evaluation of the mediation

program in the SJDC, examining a variety of performance indicators and outcome measures related to the impacts of mediation on both dependency and termination of parental rights (TPR) cases.

The SJDC's current dependency mediation program was modeled after a mediation program that ran in the district in the early 2000s, and assigns trained, neutral mediators to dependency cases to provide mediation at any point in the case. Typically, mediation in the SJDC is most commonly used at the petition, placement and TPR stages of the case. In the SJDC, juvenile dependency cases are automatically ordered to mediation by the court if there is a contested jurisdiction/disposition, permanency planning hearing, TPR or other contested case issue. Most often, the court sets the date and time of the mediation, however, in 2016 a web based scheduling system was implemented which allows parties to view available mediation slots in real time and schedule mediation through a simple email request. Participation in mediation by all parties to the case is mandatory.

The process evaluation of the SJDC mediation program described in this report includes an analysis of exit surveys completed by mediation participants (parents, relatives, foster parents, and others) and professional stakeholders (social workers, deputy district attorneys, parties' attorneys, and others). Specifically, at the conclusion of all mediation sessions in the SJDC, participants and stakeholders were given a paper satisfaction survey to provide their comments about the mediation experience.

All 442 of the participant surveys that were completed during the 2011–2017 study period (September 2011 through February 2017)<sup>1</sup> were included in the analyses. Because the number of stakeholder surveys was substantially larger than the participant survey pool, it was necessary to sample the stakeholder surveys for inclusion in the analysis. For the stakeholder sample, NCJFCJ used a “systematic sampling” method to select cases. 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 (in this case, the population being the 1,900 stakeholder surveys submitted in the SJDC during the 2011-2017 study period) by the desired sample size. This sampling method resulted in 467 stakeholder surveys being selected for inclusion in the study. Thus, the current SJDC process evaluation examines 442 participant

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<sup>1</sup> 8 participant and 5 stakeholder surveys that were completed in 2011 were included in the study groups.

surveys and 467 professional stakeholder surveys that were completed between September 2011 and 2017 to determine satisfaction levels and suggestions for mediation program improvements.<sup>2</sup>

Beginning in 2014, important changes were made to the SJDC program that contributed to improved parent attendance at mediation and decreased the number of mediation parent no-shows. As a result, where possible, this report provides comparisons of survey response data before and after 2014.

### **SJDC Mediation Program Process Evaluation: Key Findings**

1. A substantial majority of program participants (93%) and stakeholders (97%) expressed overall satisfaction with the SJDC mediation program;
2. A majority of participants (81%) and stakeholders (76%) indicated that their cases reached full or partial agreements during mediation—without mediation, contested issues may have delayed reunification of children with their families and/or delayed other permanency options for children;
3. Participants and stakeholders who expressed satisfaction with mediation reached full or partial agreements more frequently than those who expressed less satisfaction (this finding was shown to be statistically significant for all satisfaction survey questions - see Appendix F);
4. Based on survey responses, it appears that the number of parents who attended mediation sessions in the SJDC may have substantially increased after program changes were implemented in 2014, although the number of “other family members” (i.e., relatives) attending mediation appears to have decreased since 2014. While surveys alone do not provide true counts of attendance at mediation (a topic that is more specifically addressed in the SJDC outcome study), the increase in survey responses by parents does offer one indication or proxy measure of improved mediation attendance; and
5. No statistically significant differences between when in the case process mediation was held and stakeholder responses to questions gauging their satisfaction with mediation were found. This indicates that stakeholders were generally satisfied with mediation regardless of the pending legal action or case stage associated with when mediation took place.

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<sup>2</sup> Ibid.

## **Recommendations for Continued Evaluation and Program Improvement**

- 1. *Modify the participant and stakeholder exit surveys to enhance their measurement capacity:***
  - a. *Revise the participant and stakeholder survey forms to delineate additional specific participant and stakeholder types.* For participants, this could include: Grandmother, Grandfather, Step parent, Legal Guardian, Temporary Guardian, Adoptive Mother, and Adoptive Father. For stakeholders, this could also include Social Work Supervisors. This would allow expanded and more specific analyses of satisfaction indicators by participant and stakeholder types.
  - b. *Review and improve participant and stakeholder survey question construction.* Questions on both the participant and stakeholder surveys should be reviewed with an eye to eliminating any double-barreled questions. A double-barreled question is a question composed of more than two separate issues or topics, but which can only have one answer. Double-barreled questions are confusing and there is no way to discern the true intentions of the respondent, rendering analysis difficult. For example, consider revising item #7 on the Participant Survey to form two questions, as follows: 1) *“Did the mediator take steps during mediation to ensure that you were not ignored?”* and 2) *Did the mediator take steps during the mediation that made you feel important?”*
  - c. *Ensure consistency of scale construction to avoid possible confusion.* Item #7 on the Participant Survey (*“Did you feel ignored or unimportant during the mediation?”*), for example, is the only item that asks respondents to “Strongly disagree” or “Disagree” in order to indicate their positive feedback. While over 80% of participants stated that they did not feel ignored or unimportant, some participants may have been confused by the measurement scale, muting a higher rate of positive responses.
- 2. *Continue efforts to maximize the number of surveys submitted by participants and stakeholders following mediations.*** As shown in this process evaluation and previous mediation studies, participant and stakeholder surveys continue to be important sources of relevant and valuable information for program administrators, mediators, and key stakeholders for ongoing program improvement purposes. Judges and Court Masters who order mediation, and mediators themselves, should continue to reinforce the importance of completing post-mediation surveys.

3. ***Examine program implementation of, and adherence to, the existing protocol for mediation when domestic violence is an issue in a case.*** While a protocol for mediation in domestic violence cases exists, it is important to determine whether or not improvements to the protocol are needed to ensure it applies appropriately to the SJDC process and also whether the protocol is consistently applied in cases. Program administration should not only consider conducting additional training on the features of the protocol and how to implement it in cases, but should also gather information about what the current barriers are to fully implement the protocol. Furthermore, mediators should routinely and clearly document the specific things they are doing to follow the protocol. For example, mediators could be asked to complete a “checklist” that details how the mediation protocol has been adhered to in each relevant case. Future evaluations of the SJDC mediation program can also be designed to determine the extent to which the domestic violence protocol has been followed.

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# 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 rules 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,<sup>3</sup> and requiring that a petition to terminate parental rights be filed for any child that has been in foster care for 15 out of the most recent 22 months unless specific exemptions can be applied.<sup>4</sup> ASFA's passage contributed 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.

## **Time Requirements under 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.

## **Brief SJDC Dependency Mediation Program Overview**

Mediation offers a cooperative approach to dependency cases, allowing them to move 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

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<sup>3</sup> 42 USCA. § 675(5)(C)

<sup>4</sup> 42 USCA § 675(5)(E)

children themselves, to meet in a safe, confidential environment to discuss the case 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.

The mediation program has taken into account prior research that indicates that domestic violence (DV) is frequently present in child abuse cases. With this consideration, a DV protocol has been developed for the mediation program (see Appendix A). The mediation protocol is consistent with the recommendations of NCJFCJ's Family Violence Department as included in *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 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. However, the current outcome evaluation of the SJDC program, which analyzed 79 randomly selected mediation "case data sheets" from the SJDC program documenting start and end times for the mediations held, found that both the mean and median times for mediations in the SJDC approached 90 minutes.

Mediators with years of experience mediating a variety of issues were recruited for the SJDC mediation program. Currently there are four mediators in 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 statement prior to the mediation. The statement 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 of mediation, a style where the mediator does not present his or her own views of the case or of the agreement, and is instead focused on ensuring that all parties have an opportunity to be heard and that parties reach an agreement 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 forwarded to the court where it is

entered into the court's electronic case management system. The judge then enters a court order formalizing the agreement in the case. All participants are then asked to complete a short survey regarding their perceptions of the mediation, the outcome, and how they were treated.

### **An overview of the 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. 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 the 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 Mediation Program Quarterly Grant Reports

***Goals of the SJDC Dependency Mediation Program are:***

- Create a settlement process which is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model;
- Reduced litigation;
- Increased resolution of dependency case issues;
- Improved permanency outcomes for children;
- Improved timeliness outcomes for children;
- Decreased placement moves for children; and
- Meaningful participation of children and youth in the dependency case process.

**Previous Assessments of the SJDC Dependency Mediation Program**

In 2012, the Nevada Administrative Office of the Courts (AOC) awarded a contract to the NCJFCJ to conduct follow-up 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, A., Wood, S., and Bohannon, T. 2013; Summers, A., Wood, S., Bohannon, T., Gonzales, C., and Sicafuse, L., 2013; Summers, A, Wood, S., and Bohannon, T. 2013; Summers, A., and Bohannon, T. 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,” 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 2013 and 2014 evaluation reports highlighted the overall positive perceptions of the SJDC dependency mediation program. In general, parents felt heard, felt they were respected, and felt they were treated fairly during mediations. The initial research in the SJDC also documented that mediators clearly explained the mediation to parents and that parents felt a part of the decision-making process. These last two variables were correlated with successful (i.e., full or partial) mediation agreements that, in fact, occurred in 78% of the mediation cases reviewed in the SJDC during that time period.

The first of the two initial outcome studies in the SJDC focused on a small sample of termination of parental rights (TPR) cases. The analysis found that there were fewer default orders for mothers and fathers in mediated TPR cases. There was also an association found between TPR mediation and an increased number of vacated settlement conferences and vacated contested

trials. However, mediation was also found to be associated with somewhat longer times to TPR case outcomes for mothers, compared to non-mediated cases.

The second outcome evaluation in the SJDC 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 more hearings compared to 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 Second Judicial District Court Dependency Mediation Program:**

- Stakeholders and participants perceived mediation to be successful.
- Stakeholders agreed that mediation lessened their workload in preparation and in hearings, and is a good alternative to court.
- The majority of the mediations (78%) resulted in agreement.
- Non-professional participants reported feeling heard, respected, and fairly treated.
- Mediated cases had fewer default orders.
- Mediated cases were more likely to result in reunification of the children with their families when compared to non-mediated cases (e.g., among mediated cases that had closed 88% had resulted in reunification, while only 50% of non-mediated closed cases resulted in reunifications).
- Fathers who participated in mediation were more engaged and were present at more hearings compared to fathers who did not participate in mediation (e. g., fathers who participated in mediation attended 72% of all hearings, while those who did not participate in mediation only attended 50% of their 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 too often 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 process evaluation**

The primary purpose of the current process evaluation is to re-assess participant and stakeholder satisfaction with the mediation process in the SJDC. The current study covers a more extended time period than previous studies (roughly 5 years) and thus, allows for examination of participant and stakeholder perceptions of the program as the program has evolved. This updated assessment captures a period in which important programmatic changes were implemented; particularly the aforementioned changes intended to reduce parent no-shows.

This process evaluation examines whether mediation is associated with higher satisfaction levels for participants and stakeholders through the use of exit surveys (see Appendices C and D) and includes analyses of possible changes in satisfaction levels before and after the implementation of programmatic changes intended to decrease parent no-shows. An outcome evaluation of the SJDC program has also been completed (in a separate report) to determine if mediation leads to better case outcomes and improved performance indicators. For that, readers should also refer to the SJDC outcome evaluation report, which outlines the positive impacts mediation has on the outcomes of dependency and TPR cases in the SJDC. These positive impacts include, but are not limited to: mediated cases exhibited a higher reunification rate with both parents than control group non-mediated cases; mediated cases that closed due to reunification took substantially less time to achieve reunification when compared to non-mediated control group cases; and mediated cases experienced fewer continued court hearings and more vacated hearings than non-mediated control group cases (indicating a potential reduction in the court's docket demands).<sup>5</sup>

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<sup>5</sup> Siegel, G.; Ganasarajah, S.; Gatowski, S.; Sickmund, M.; Devault, A, 2017. *Outcome Evaluation of the Second Judicial District Court's Dependency Mediation Program (Washoe County, Nevada)*. Reno, NV: National Council of Juvenile and Family Court Judges

## Literature Review

This section provides an overview of time requirements associated with the federal Adoption and Safe Families Act 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, over 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 and 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, 10–20% of cases have reached partial agreements, and in only about 10% 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, 2013). 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., 2013). 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 to 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 very satisfied or somewhat 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 process evaluation of the SJDC mediation program assesses participant and stakeholder perceptions of current mediation practice, examines common themes emerging from this assessment, and offers suggested areas for ongoing program improvements.

After the initial evaluations of mediation in the SJDC, and in response to recommendations made in 2013, the court initiated important changes intended to address the rate of parent no-shows and other mediation program areas in need of improvement. A concurrent goal of the current process evaluation is to determine if these changes had discernable impacts on the program; more specifically, to determine if there were notable differences in survey responses before and after 2014 (before and after program changes were implemented). Furthermore, data from the satisfaction surveys also provide an indication, albeit preliminary, as to whether or not parent attendance at mediation improved after January 1, 2014. Along these lines, the current study seeks to replicate some of the aspects of the previous SJDC mediation research while also expanding it to include an initial comparison of “before and after” programmatic changes.

As indicated in the 2013 study reports, inconsistent attendance by parents at mediations posed a persistent challenge for the program during its first 2 years. As a result, the SJDC made it a priority to take steps to increase parent attendance and reduce no-shows. Data drawn from the SJDC surveys, case data sheets, and internal data maintained by the SJDC program, were analyzed to determine if there were indications that changes in parent attendance/no-shows actually occurred (this issue is more fully examined in the SJDC outcome study). To clarify, while surveys alone do not provide a complete picture of actual attendance at mediation, changes in the number of parent surveys completed can serve as one indicator of shifts in parent attendance. This study compares survey responses before 2014 to responses from January 1, 2014 forward.

The current process evaluation seeks to update the findings of the previous studies and answer the following questions:

- What are the challenges and successes with the mediation program?
- Is the mediation program successfully engaging parents and stakeholders?
- Are there differences in survey respondent perceptions of the program before and after 2014?

- Do the parties perceive mediation as helpful?
- What did participants and stakeholders perceive to be the most and least helpful aspects of the mediation program?
- In what ways can the program be improved?

Findings from the outcome evaluation of the SJDC mediation program are presented in a separate report. The outcome evaluation report examines a wide range of data, performance indicators, and outcome measures and supplements the more qualitative findings presented in this process evaluation report.

### **Instrumentation and Data Collection Procedures**

Mediators handed out paper survey forms at the completion of each mediation event (see Appendices C & D for blank copies of the actual survey forms). The forms were designed by NCJFCJ. The participant surveys (i.e., exit surveys given to parents, relatives, and foster parents) consisted of 13 items, while the professional stakeholder surveys (i.e., exit surveys given to attorneys, social workers, advocates and others) had 11 items; each survey had a mix of forced choice and open-ended items. The survey items did not change since the mediation program began in 2011, and the completed survey forms used for the current analysis reflect the same items used for the original SJDC studies.

The survey forms do not require respondents to provide any identifying information other than to designate their particular participant or stakeholder role and the date of the mediation. Overall, the survey is intended to capture participant and stakeholder perceptions post-mediation, on a number of indicators that are considered important by program administrators, mediators, judges, court masters, and other system stakeholders. The survey questions also reflect items that have been used in process evaluations in other jurisdictions.

### **Sample Selection and Description**

Two groups of survey respondents were involved in the process evaluation—*program participants* and *professional system stakeholders*. All 442 participant surveys that were completed during the 2011–2017 study period were included in the analysis. Because the number of stakeholder surveys was substantially larger than the participant survey pool, it was necessary to sample the stakeholder surveys for inclusion in the analysis.

For the stakeholder sample, a systematic sampling method was used to select cases. 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 (in this case, the population being the 1,900 stakeholder surveys submitted in the SJDC during the 2011–2017 study period) by the desired sample size. A count was conducted on the selected sample to ensure that it was representative of the stakeholder population in the SJDC. This sampling method resulted in 467 stakeholder surveys being selected for the study.

The substantial number of surveys included in this study gave the research team and mediation program staff confidence that the results of this process evaluation are indeed representative of all respondents and reflect a substantially more robust and representative data source compared to the smaller groups of respondents available for the initial SJDC studies.

Survey data were entered into a Microsoft Excel spreadsheet. Multiple researchers, at random points during data entry, would review the spreadsheet to cross-check entries and ensure the accuracy and reliability of the data.

### **Analyses**

The data entered in MS Excel were imported into Statistical Package for the Social Sciences (SPSS) for analysis. Descriptive and inferential statistical analyses were run using the survey data. Qualitative questions were thematically analyzed to determine if there were any reoccurring sentiments among different participants and stakeholders. The results of these analyses will be further explored and discussed in the next section of the report. For more detailed reporting on the statistical analyses please refer to Appendix F.

# Results

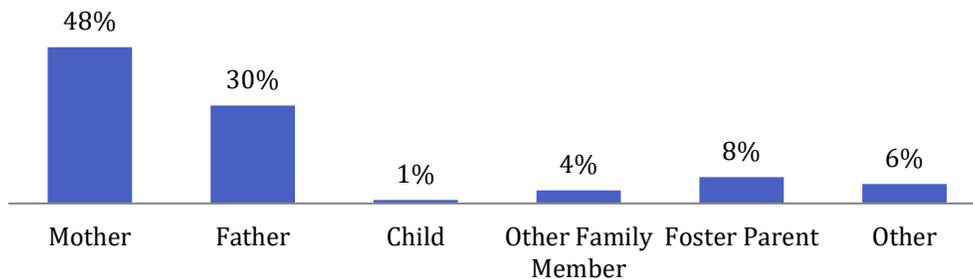
Unless otherwise indicated, all data presented in this section were drawn from participant and stakeholder surveys.

## Participant Surveys

### *Descriptive Analyses*

A total of 442 participant surveys were used for the evaluation (this includes all of the participant surveys received from the SJDC). Figure 1 (below) provides the breakdown of the types of participants who attended mediation and completed surveys. A majority of the participants were mothers or fathers (78%; n=345) followed by foster parents (8%; n=35). “Other family members” consisted of relatives such as grandparents, aunts, and uncles (those in the “Other” category were not specific in indicating their relationships to the case but most likely included “fictive” relatives and family friends).

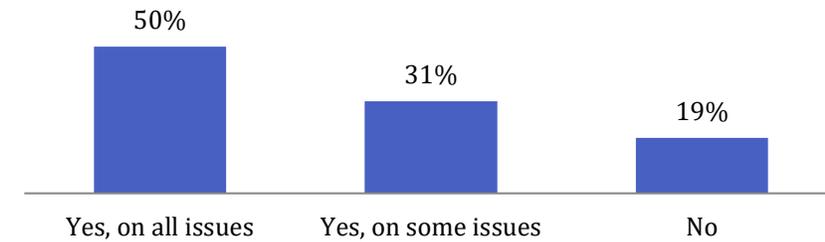
**Figure 1. Participant attendance at mediation**  
N = 442



Source: SJDC Participant Surveys (2011 - 2017)

Participants were asked in the survey if an agreement was reached during their mediation sessions. At 81% (n=358), participants overwhelmingly indicated that through mediation they were able to achieve full or partial agreements (Figure 2, below).

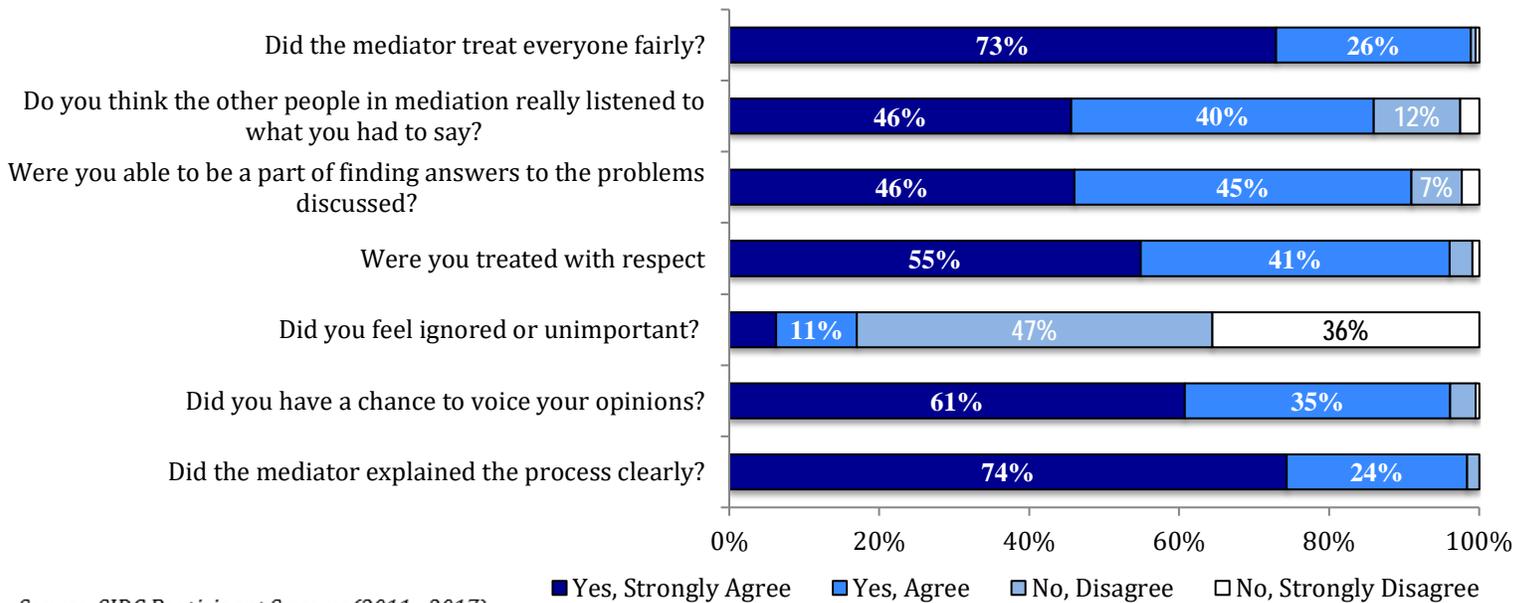
**Figure 2. Participants' reports of whether agreement was reached at mediation**  
N = 442



Source: SJDC Participant Surveys (2011 - 2017)

Participants were asked to respond to five questions intended to measure their satisfaction levels with mediation. These items use a four-point rating scale (Yes, Strongly Agree; Yes, Agree; No, Disagree; No, Strongly Disagree). Figure 3, below, displays the variance in participants' responses to the seven satisfaction questions.

**Figure 3. Participant satisfaction with mediation**



Source: SJDC Participant Surveys (2011 - 2017)

Participant responses showing the raw numbers of positive responses from Figure 3 are also summarized below:

<b>Participant survey item</b>	<b>Total Number of Responses</b>	<b>Percentage Agree or Strongly Agree</b>	<b>Number Agree or Strongly Agree</b>
1. Did the mediator treat everyone fairly?	436	99%	431
2. Do you think the other people in mediation really listened to what you had to say?	434	86%	373
3. Were you able to be a part of finding answers to the problems discussed?	430	91%	391
4. Were you treated with respect?	434	96%	417
5. Did you feel ignored or unimportant?	430	17%	73
6. Did you have a chance to voice your opinions?	438	96%	421
7. Did the mediator explain the process clearly?	440	98%	433

Source: SJDC Participant Surveys (2011—2017)

Satisfaction item #5 above deserves some clarification. Unlike the other six satisfaction questions, in order for respondents to indicate, for example, that they did *not* feel ignored or unimportant, they had to respond “Strongly disagree” or “Disagree,” whereas in the other four items, affirmative responses called for participants to “Agree” or “Strongly Agree.” This item may have been purposely worded this way in order to inhibit what is known as the “response set” phenomenon. The response set phenomenon can occur when you have a series of like-worded items in a survey that all call for similarly formatted responses. In brief, such a format can prompt less than careful response patterns as respondents come to expect that all positive comments have to indicate that they agree or strongly agree.

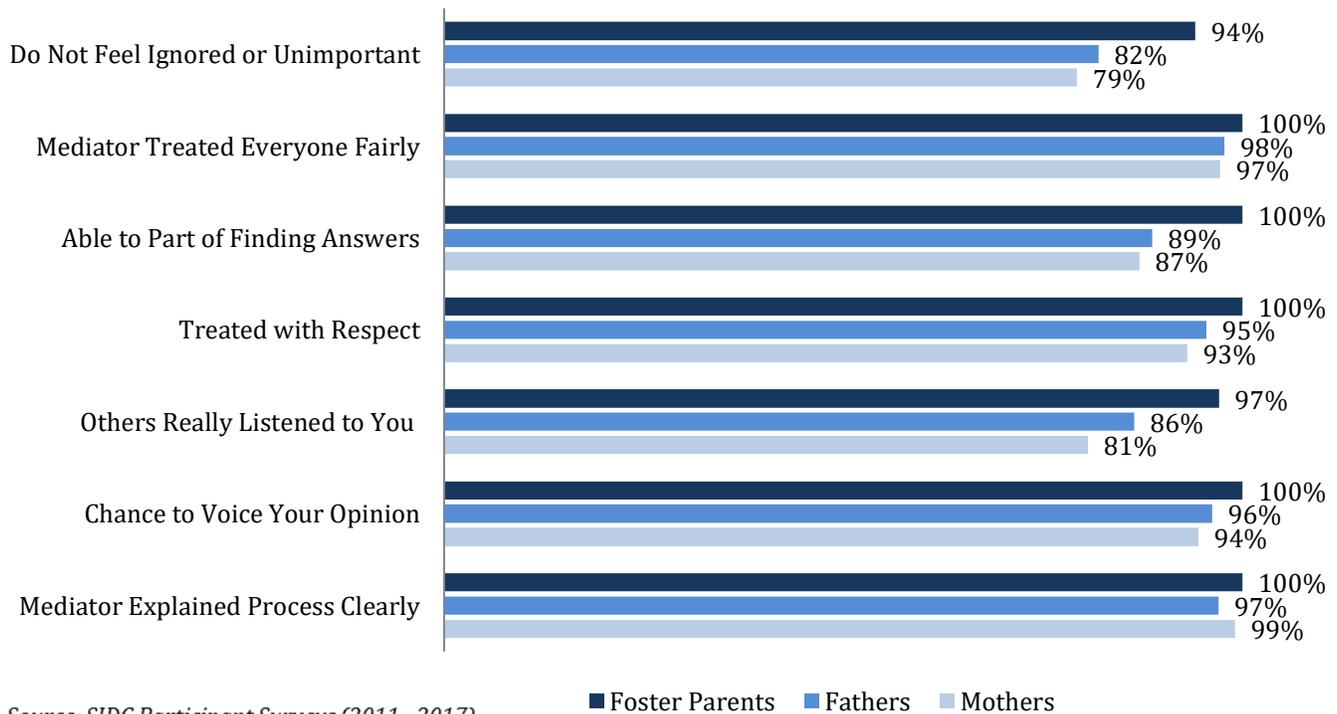
The lower affirmative/positive rates of responses—more than 80% versus more than 90% for the other six measures of satisfaction—may suggest that question #5 should be reworded to avoid possible confusion, and perhaps should follow the same response format as the other questions. For example, it could be revised into two questions, “Did the mediator take steps during

mediation to ensure that you were not ignored?” And, second, “Did the mediator take steps to make you feel important?”

Participants were overwhelmingly satisfied with the mediation process during the study period, regardless of what may be a relatively minor fluctuation in the satisfaction findings. Specifically, participants strongly agreed or agreed that they were treated fairly in the mediation, that they were listened to, that they were involved in the problem-solving process, and had opportunities to voice their opinions. Participants did not feel ignored or unimportant in the mediation and strongly agreed or agreed that the mediation process had been clearly explained to them. Furthermore, the overwhelming majority of participants felt respected in the mediation process.

Figure 4 provides an additional illustration of participant responses, looking more specifically at the three primary groups of mediation participants.<sup>6</sup> As shown, all three key participant group responses to the seven satisfaction items trended in positive directions.

**Figure 4. Participant satisfaction with mediation by participant type**



Source: SJDC Participant Surveys (2011 - 2017)

NOTE: For reasons previously described, the first item in Figure 4 (“Do Not Feel Ignored or Unimportant”) has been rephrased to allow for similar formatting to the other items in the chart.

<sup>6</sup> Mothers (n = 217 surveys), Fathers (n = 133 surveys), and Foster parents (n = 34 surveys)

### *Statistical Analyses*

Analyses were run to determine if there were differences between participant relationship types (mother, father, child, foster parent, other relatives, and others) in their responses to the satisfaction measures. This section will briefly discuss key aspects of these analyses and the respective results.

The statistical tests uncovered a number of significant differences among satisfaction ratings for cases in which full, partial, or no agreements was reached and are detailed in Appendix F. More specifically, the analyses found that, in general, cases that reached full agreement reported higher satisfaction ratings than those that reached partial or no agreement (depending on the question). Additionally, in general, cases that reached partial agreement reported higher satisfaction ratings than those that reached no agreement (depending on the question). These differences occurred on the following participant survey items:

- Item 3 – The mediator explained the mediation process clearly so I knew what to expect.
- Item 4 – Did you have a chance to voice your opinions?
- Item 6 – Do you think the other people in mediation really listened to what you had to say?
- Item 7 – Did you feel ignored or unimportant during the mediation?
- Item 8 – Were you treated with respect?
- Item 9 – Were you able to be a part of finding answers to the problems discussed?
- Item 10 – Did the mediator treat everyone fairly?

Although there were differences that were statistically significant, they may not be particularly meaningful. While the statistical analyses identified some significant differences between foster parent responses and other participants' responses, it is important to remember that, overall, the responses of *all* participants to these satisfaction measures were generally very positive. In effect, the findings of statistical significance on these items distinguish between degrees of overall satisfaction and do not compare or distinguish between ratings of satisfied versus not satisfied or limited satisfaction. In addition, the relatively lower number of foster parent respondents ( $n = 34$ ) must also be considered when interpreting this finding.

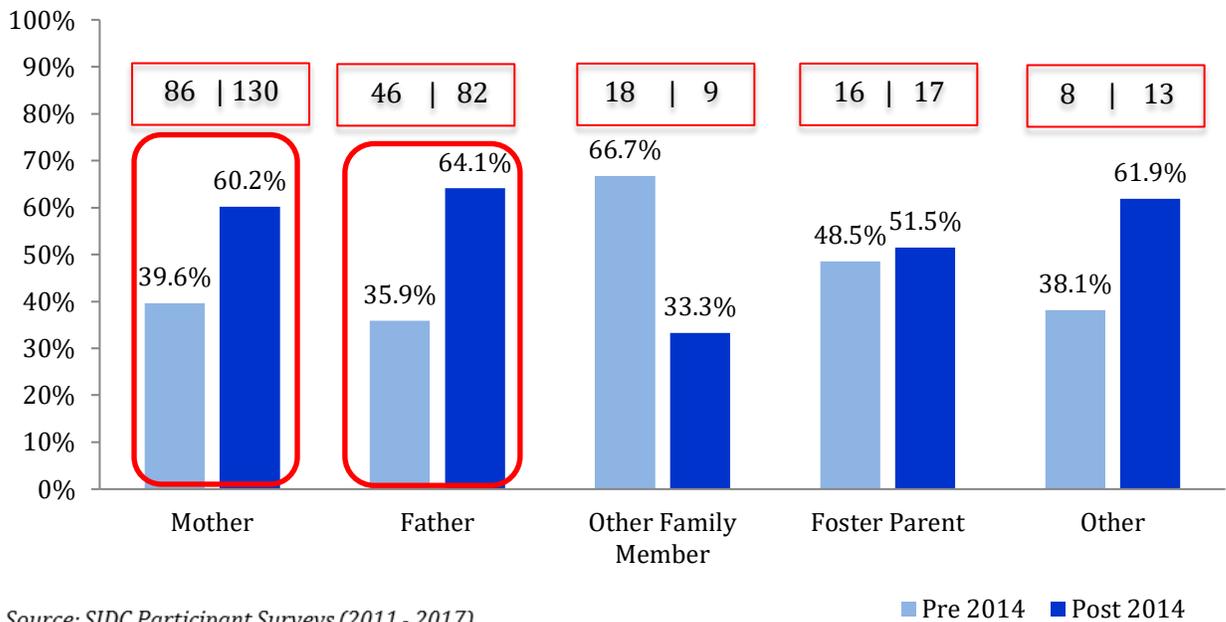
*Pre- and Post-2014 Comparisons (Participant Surveys)*

As discussed, based on recommendations of the prior evaluation of the SJDC Dependency Mediation Program, several changes took place to improve program performance. In order to determine, at least initially, if the changes implemented over the course of 2013 (and beyond) had positive effects, analyses were conducted to determine if satisfaction levels changed before and after January 1, 2014. In brief, tests of statistical significance (see Appendix F) indicated that overall participant satisfaction levels did not change (i.e., they remained positive) for the pre- and post-2014 periods.

Analyses also examined pre- and post-2014 survey responses to determine if there were any discernable changes in participant responses that might be reflective of changes in, specifically, parent attendance at mediation. The only *statistically significant* difference (p=. 04, see Appendix F, item 4.a.) related to participant attendance post-2014 is the *decrease* in attendance for “other family members,” a subset of participants that most often involves grandparents.

Figure 5, below, illustrates that there were increased numbers of surveys received from mothers, fathers, foster parents, and “others” (non-relatives) since 2014. However, these increases were not statistically significant.

**Figure 5. Participant survey respondents by types [pre-2014 vs 2014-2017]**



Source: SJDC Participant Surveys (2011 - 2017)

Once more, it is important to emphasize that satisfaction surveys, while important and informative, are not a primary source of attendance data. To obtain additional attendance data, the research team reviewed copies of mediation program reports prepared by the SJDC Family Services Manager (the person who oversees the mediation program in Washoe County). These reports are submitted to the Nevada CIP on a quarterly basis. In the reports that covered the February 1, 2015 through March 15, 2016 quarters, the Family Services Manager indicated that “a total of 128 cases were scheduled for mediation, 118 mediations were held, and there was at least one parent at each of the 118 mediations held.”

More currently, in the most recent monthly Court Manager’s Report (an internal court report in the SJDC), the Family Services Manager noted that nine mediation sessions were held during April 2017 and at least one parent was present at each of these mediations. The SJDC program records parent attendance and it is these data that are used in periodic program reports (again, this information is explored in more detail in the outcome evaluation report).

#### *Qualitative Analysis of Participant Responses*

Participants were asked four different open-ended questions in the survey. The responses from each of the questions were collected and thematically analyzed to pinpoint and record any re-occurring patterns.

While full or partial agreements were reached in most cases in this study, there were a small number of cases in which no agreements were reached. For these cases, participants were asked “Why do you think an agreement could not be reached?” There were a total of 90 responses to this question. Although the majority of the responses singled out reasons that were unique to each individual case, three re-occurring themes were also expressed in 27% (n=24) of the 90 responses. These three themes are illustrated below:



*Source: SJDC Participant Surveys (2011 - 2017)*

Participants who were able to reach an agreement (full or partial) during mediation were asked, “Do you think the mediation agreement will work?” There were a total of 253 responses analyzed for this question with 74% (n=177) of the respondents indicating that “Yes” they did believe the agreement would work, and 15% (n=35) of respondents replying “Maybe/Hope So.” The most common responses to this question are illustrated below with the corresponding percentages.

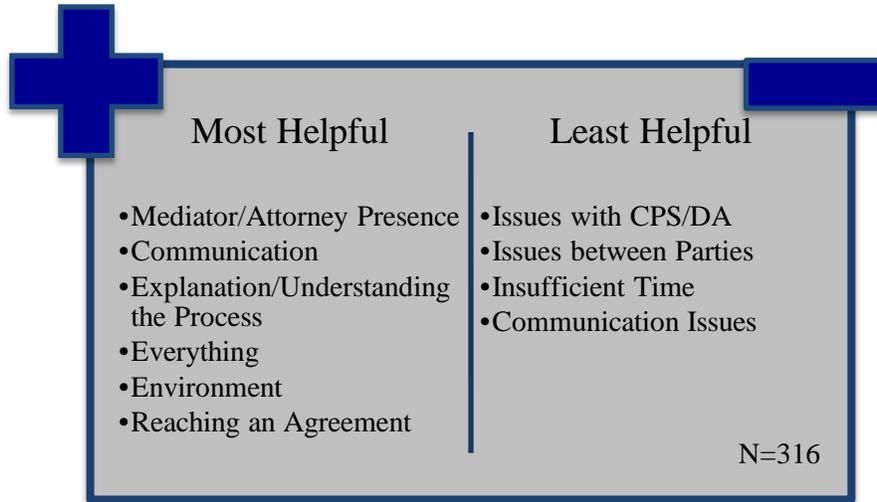


Source: SJDC Participant Surveys (2011 - 2017)

Finally, the participant survey asks respondents to identify what are the most and least helpful aspects of mediation. A total of 316 responses were analyzed.

When asked what the *least helpful* aspects of mediation were, a relatively small number of participants (n=15) indicated that they felt there were issues with some social workers and/or some of the deputy district attorneys, though again, it should be emphasized that 78% of the participant *comments* (i.e., 247 out of a total of 316 collected *comments*) to these open-ended questions were positive.

When asked about the *most helpful* aspects of mediation, several reoccurring themes were noted with 34% (n=64) of the responses indicating that the presence of the mediator (a neutral party) was the most helpful aspect of the process. The communication during mediation was also noted as one of the most helpful aspects (31%; n=58) with participants noting in their responses that mediation allowed for all of their questions to be answered and allowed for a setting to voice any and all concerns. These themes are illustrated, in most commonly mentioned to least commonly mentioned, in the graphic on the next page:



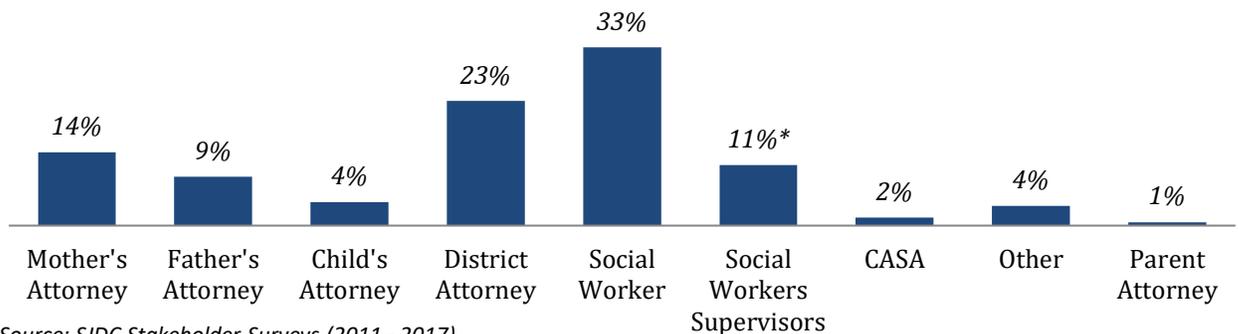
Source: SJDC Participant Surveys (2011 - 2017)

### Stakeholder Surveys

#### Descriptive Analysis

As noted before, professional stakeholders received a separate survey at the conclusion of mediation (see Appendix D). A total of 467 stakeholder surveys were systematically sampled from approximately 1,900 mediation exit surveys that were completed between 2011 and early 2017 in the SJDC. The sample consisted of 38% (n=177) of surveys done prior to 2014 and 62% (n=285) completed during 2014 or later, for a total of 462 surveys. Figure 6, below, describes the types of stakeholders who completed mediation exit surveys. Social workers made up a majority of stakeholder respondents (33%; n=153), followed by deputy district attorneys (23%; n=107).

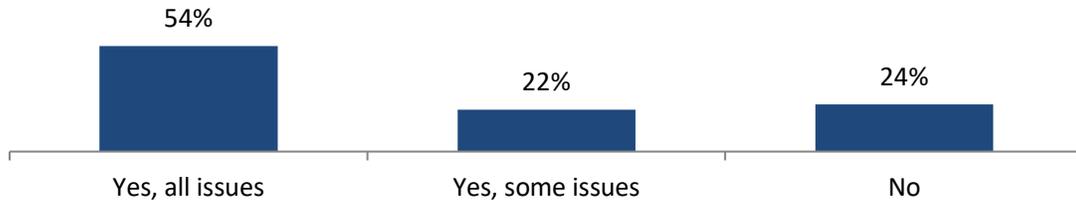
**Figure 6: Stakeholder attendance at mediation**  
N = 464



Source: SJDC Stakeholder Surveys (2011 - 2017)

Stakeholders were asked if agreements were reached during their mediation sessions. Responses to this question (item 4 on the survey form) were similar to those that were collected from the participants. At 76% (n=351), a majority of stakeholders indicated that, through mediation, they were able to achieve full or partial agreements (see Figure 7 below).

**Figure 7: Stakeholders' report of whether agreement reached at mediation**  
N = 464

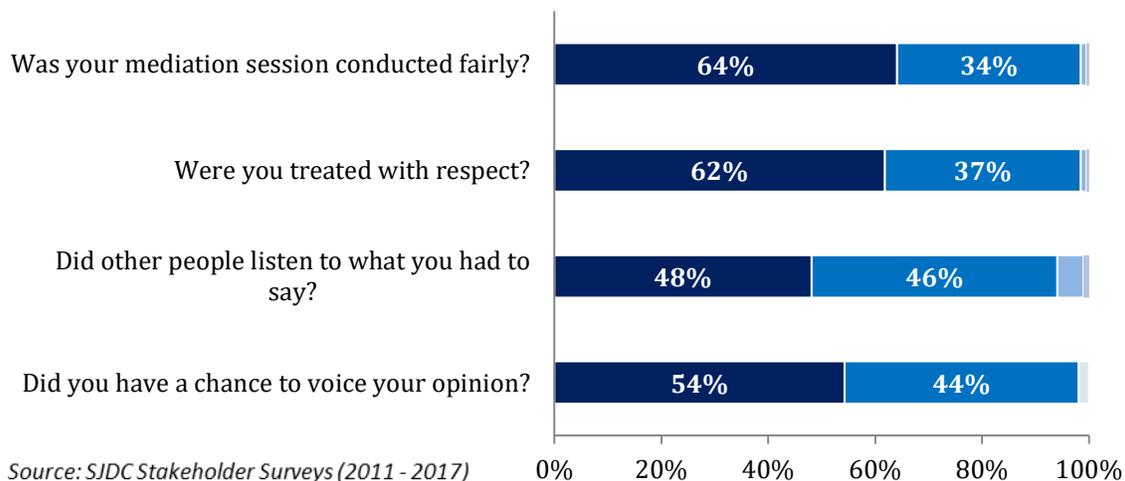


Source: SJDC Stakeholder Surveys (2011 - 2017)

Participants were asked to respond to four items (items #5, #6, #7, and #8 on the survey form) measuring their satisfaction with mediation, again, using a 4-point response scale (Yes, Strongly Agree; Yes, Agree; No, Disagree; No, Strongly Disagree). Figure 8, below, reflects the variance in stakeholder responses to the four satisfaction questions. As shown, each question yielded positive response ratings of more than 90% (i.e., agree or strongly agree).

**Figure 8: Overall stakeholder satisfaction with mediation**

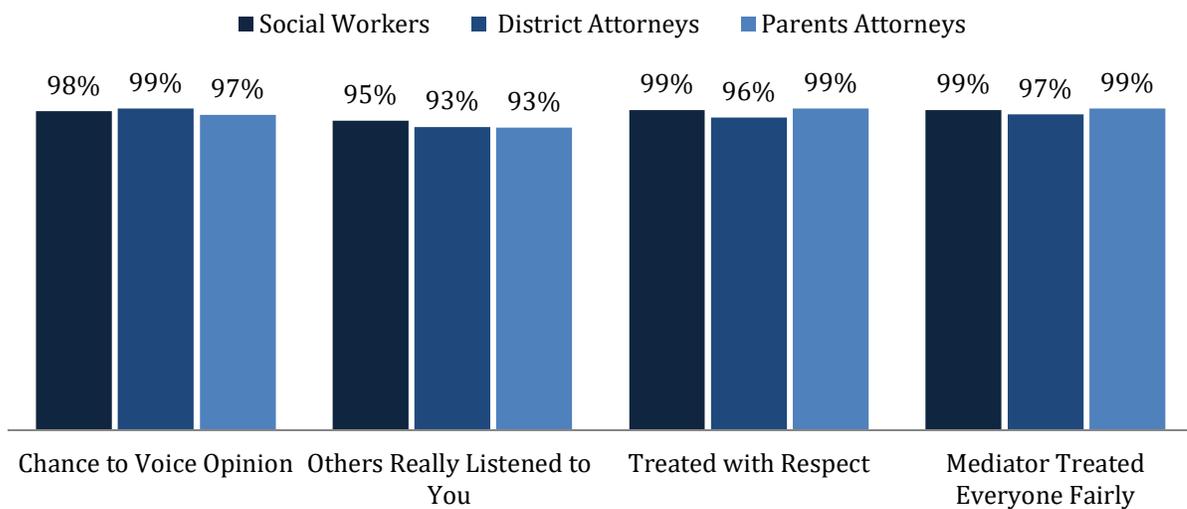
■ Yes, Strongly Agree ■ Yes, Agree ■ No, Disagree ■ No, Strongly Disagree



Source: SJDC Stakeholder Surveys (2011 - 2017)

To further specify the levels of stakeholder satisfaction with mediation, Figure 9 below displays the responses of the three primary stakeholder groups<sup>7</sup> to the four satisfaction items— social workers, deputy district attorneys, and parents’ attorneys (attorneys for mothers and fathers are combined into one group). As shown, all three key stakeholder groups expressed very strong satisfaction ratings in response to these four questions.

**Figure 9: Stakeholder satisfaction with mediation by stakeholder type**



Source: SJDC Stakeholder Surveys (2011 - 2017)

### Statistical Analyses

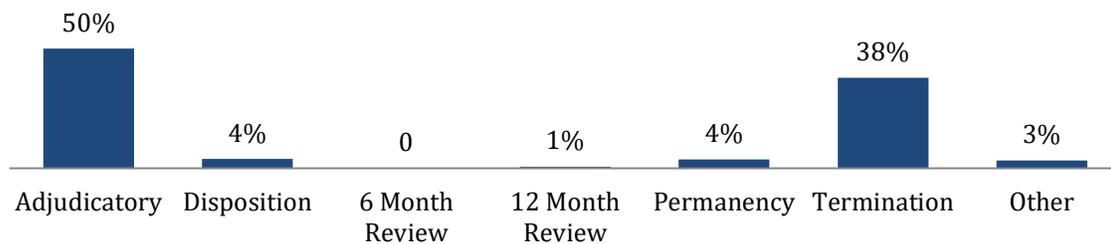
Analyses were run to determine if differences in roles (deputy district attorney, mother’s attorney, father’s attorney, social worker, social work supervisors, CASA, etc.) had measurable effects on responses to the satisfaction survey questions. The statistical analyses found that a stakeholder’s role did *not* have a significant effect on whether the individual felt they had a chance to voice their position, felt really listened to, were treated with respect, or whether the mediation was conducted fairly (see Appendix F for statistical significance tests). Therefore, regardless of their specific role, all stakeholders had positive responses to these items.

Figure 10 depicts when in the dependency case mediation took place. Specifically, Figure 10 breaks down the different pending legal actions or case stages that were to occur soon after mediations were held. Half of the cases (50%; n=234) conducted a mediation before the adjudicatory stage of the case. Statistical analyses were run to determine if there were differences

<sup>7</sup> Mother’s Attorney (n=63), Father’s Attorney (n=42), District Attorney (n=23%)

between the legal actions pending or case stages and responses of stakeholders to the four satisfaction questions. No statistically significant differences between the legal actions pending (case stages) and stakeholder responses to the four satisfaction items were found. This indicates that stakeholders were generally satisfied with mediation regardless of the pending legal action or case stage associated with when mediation took place.

**Figure 10. Types of legal action pending**  
**N = 464**



Source: SJDC Stakeholder Surveys (2011 - 2017)

*Pre- and Post-2014 Comparisons (Stakeholder Surveys)*

As with the participant surveys, analyses compared stakeholder survey responses before and after January 1, 2014, to determine if stakeholder satisfaction levels changed in those two time periods. In effect, this analysis attempted to examine whether or not the possible increase in parent attendance suggested by survey responses (and supplemental program reports) cited earlier resulted in any changes in perceptions among stakeholders, looking specifically at the four measures of satisfaction with mediation.

For the four satisfaction measures, the statistical results indicate that, overall, there were no significant differences before or after 2014 in whether stakeholders felt they had a chance to voice their positions, felt really listened to, were treated with respect, or whether the mediation was conducted fairly. Satisfaction approached 100% in the pre-2014 period and remained high after programmatic changes were instituted to improve parent attendance. The broader point is this - when mediation has been held, pre- and post-2014- the majority of stakeholders have been satisfied with the process.

Analyses were also run to determine if there were statistical pre- and post- 2014 differences in reports of whether mediation had produced agreements. The results indicate that there is no

statistical association between stakeholder survey date (pre-/post-2014) and whether stakeholders reported that agreements had been reached (see Appendix F).

The finding that no statistical significance was found between the date of mediation (i.e., pre or post-2014) and whether agreements were reached should not be construed to mean that programmatic changes had no effect. The absence of significant differences in stakeholder perceptions related to agreements being reached before 2014 and after 2014 seems to simply reflect that stakeholders perceive that when mediation is held, it is quite likely to produce agreements.

### *Qualitative Analyses of Stakeholder Responses*

Stakeholders were asked four different open-ended questions in the survey (see Appendix D, items #4A, #4B, #9, and #10). The responses were compiled and thematically analyzed to pinpoint and record any re-occurring patterns within their responses.

Stakeholders were asked why they thought certain cases could or could not reach agreement. A total of 248 comments were compiled and thematically analyzed. While the majority of the responses singled out reasons that were unique to individual cases, a few common sentiments surfaced in the responses. The most common stakeholder sentiment as to why agreements could not be made during mediation involved parties was being “Unwilling to Agree/Compromise” (45%; n=38), while the need to have allegations, petition language and/or findings modified seemed to be perceived as the main reason for agreements being reached (33%; n=28). The most common themes identified, in descending order, in the qualitative analyses include:

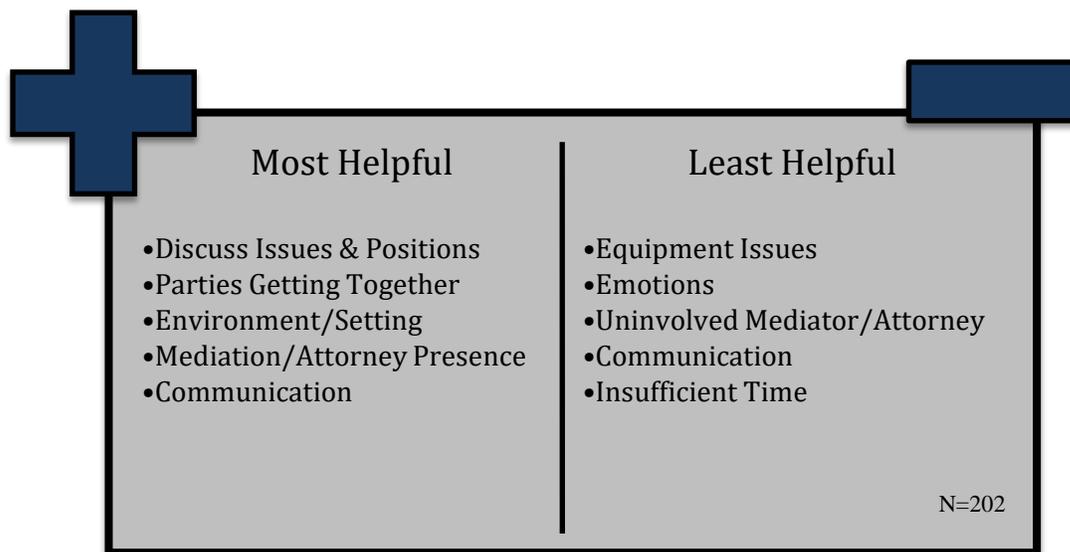


Source: SJDC Stakeholder Surveys (2011 - 2017)

Interestingly, one of the salient factors identified by stakeholders for why agreements were or were not reached was *time*. Some respondents believed that mediation was not long enough for all the parties involved to reach agreements, while other stakeholders perceived the duration of mediations to be the right amount of time to reach agreements. As noted previously, preliminary examination of the actual time spent in mediation sessions produced a median of 90 minutes.

Finally, stakeholders were asked what they perceived to be the most and least helpful aspects of mediation. Several reoccurring themes emerged. The highest percentage of stakeholder responses (23%; n=34) indicated that being able to discuss all issues and positions was the most helpful aspect of mediation. Having all involved parties in the same room during the mediation was also noted as one of the most helpful aspects (22%; n=32) as was the environment in which mediation occurred (21%; n=31).

When asked what the least helpful aspects of mediation were, no overarching themes emerged in the stakeholders' responses. For example, the most frequently cited theme involved issues with technology (e.g., problems with phones, printers, etc.) but this comment appeared in only 19% (n=5) of stakeholder responses. The full breakdown of the "most helpful" and "least helpful" aspects of mediation noted by stakeholders can be seen below. Once again, it should be noted that 60% (n=202) of all stakeholder responses to the qualitative questions were positive.



Source: SJDC Stakeholder Surveys (2011 - 2017)

## Discussion

### Summary of Participant and Stakeholder Satisfaction Survey Findings

Overall, mediation participants and stakeholders reported being very satisfied with the mediation process in the SJDC. Among mediation participants, a greater proportion of foster parents reported being satisfied with the mediation process when compared to mothers, fathers, other family members, or participants noted as “others.” This finding could indicate that, perhaps to some extent, foster parents are being treated differently than other participants. Or, perhaps, it could be that mediation may give foster parents, in particular, a qualitatively different way to participate in the case process than they would normally have—one that affords them more of an opportunity to express their viewpoints than they would have in a court hearing. Once again, however, it is important to note that the differences in mediation satisfaction ratings among participants were minimal and, overall, *all* participants expressed high levels of satisfaction with the mediation process.

For the process evaluation study period (2011-2017), survey respondents indicated that when mediations were held in the SJDC they typically ended in agreements. When examining pre 2014 and post 2014 mediations, the analyses found no statistical relationship between pre/post 2014 mediation events and whether an agreement was reached, indicating that, at least according to survey responses, the rates of agreement may have remained consistently high before and after mediation program changes were enacted in 2014. That being said, based on indications from survey responses and reports from the SJDC program, the rate of mediation parent no-shows (and thus, cancelled mediations) appears to have decreased and thus, more mediation sessions were probably held and not cancelled from 2014 on. The outcome evaluation component of the SJDC Mediation Program provides more details regarding the decrease in parent no-shows.

The process evaluation also found no differences in satisfaction levels before or after 2014, indicating that programmatic changes did not adversely affect participant or stakeholder perceptions of mediation. However, the participant survey findings did suggest that the attendance of “other family members” at mediation may have decreased from 2014 on.

In sum, the findings of this process evaluation of the SJDC mediation program indicate that participants and stakeholders were very satisfied with mediation and that positive satisfaction levels have been persistent over time. Preliminary data analysis from the SJDC outcome

evaluation, as well as program reports submitted by the SJDC mediation program manager, strongly suggest that the rate of parent no-shows at mediation (and thus, cancelled or vacated mediation sessions) dropped dramatically after January 1, 2014, and that this reduction has allowed for substantially more mediation sessions to be held compared to previous years. Survey results also indicate that the number of “other family members” (which includes grandparents) attending mediation may have declined somewhat since 2014.

Finally, the surveys indicate that the majority of mediated cases included in the study reached full or partial agreements. Given that dependency filings have sharply increased in Washoe County over the past five calendar years - by more than 70% from 2012 through 2016, according to data provided by the SJDC - and that many of these dependency cases could become contested matters, it appears that the SJDC Dependency Mediation Program plays an essential role in helping the court manage a very challenging workload.

### **Limitations of the process evaluation**

The process evaluation findings are limited in that they only assess participant and stakeholder perceptions of the mediation process and program. While satisfaction surveys do shed light on important aspects of the SJDC program, surveys by themselves do not provide an empirical indication of the ways mediation may contribute to positive case outcomes. For that, readers should also refer to the SJDC outcome evaluation report, which outlines the positive impacts mediation has on the outcomes of dependency and TPR cases in the SJDC. These positive impacts include, but are not limited to: mediated cases exhibited a higher reunification rate with both parents than control group non-mediated cases; mediated cases that closed due to reunification took substantially less time to achieve reunification when compared to non-mediated control group cases; and mediated cases experienced fewer continued court hearings and more vacated hearings than non-mediated control group cases (indicating a potential reduction in the court’s docket demands).<sup>8</sup>

While the existing surveys currently generate useful information that can assist the SJDC program to track and monitor participant and stakeholder perceptions of their mediation experience, the current exit surveys’ capacity for measuring satisfaction could be enhanced. It may be useful, for example, for the program to add more specific participant relationship categories or types to the survey form (such as grandparent, sibling, step-parent, prospective

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<sup>8</sup> Siegel, G.; Ganasarajah, S.; Gatowski, S.; Sickmund, M.; Devault, A, 2017. *Outcome Evaluation of the Second Judicial District Court’s Dependency Mediation Program (Washoe County, Nevada)*. Reno, NV: National Council of Juvenile and Family Court Judges

adoptive parent, etc.). These added categories or types would help clarify relationships and allow for more specific delineations of who is attending mediation and their respective satisfaction levels. On the stakeholder surveys, to be more precise, the survey instrument should include social worker supervisor as a category.

Furthermore, the participant and stakeholder surveys should be reviewed to eliminate all double-barreled questions. Double-barreled questions are questions that touch upon more than one issue yet allows the respondent to provide only one answer. These questions may result in inaccuracies in the attitudes or opinions being measured by the question as the respondent can only answer one of the two questions and cannot indicate which one is being answered. In the current stakeholder survey, there are two questions that could be answered as pertaining to the stakeholder themselves or their clients. For example, survey item #5 on the stakeholder survey reads, “Did you (or your client) have a chance to voice your opinions?” The stakeholder could answer this as “Did you have a chance to voice your own opinions?” or “Did your client have a chance to voice their opinions?” Interpreting the response to this question is problematic. In addition, survey items such as item #5 should be reviewed to ensure they are more nuanced with respect to the stakeholder’s specific role. Because parents’ attorneys, for example, should be offering their client’s opinion or position rather than expressing their own opinions, better questions are “Did your client have a chance to voice their opinions?” and “Did you have a chance to voice your client’s position?”

## Conclusion

This updated SJDC Dependency Mediation Program Process Evaluation reveals a range of encouraging findings including strong satisfaction with the program as expressed by participants and stakeholders. A number of these findings reaffirm those identified in the previous (2011 and 2013) analyses of the SJDC program. When taken in conjunction with the accompanying SJDC Dependency Mediation Program Outcome Evaluation Study, 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 in Washoe County over the past 5 years. It is hard to imagine how the court could effectively manage its dependency caseload 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, including those related to participant and stakeholder satisfaction, this report outlines a number of recommendations for the SJDC to consider as it continues its efforts to improve program performance and impacts.

### Recommendations for Continued Evaluation and Program Improvement

1. *Modify the participant and stakeholder exit surveys to enhance their measurement capacity:*
  - a. *Consider revising the participant and stakeholder survey forms to delineate more specific participant and stakeholder types.* For participants, this could include: Mother, Father, Child, Grandmother, Grandfather, Step parent, Sibling, Legal Guardian, Temporary Guardian, Adoptive Mother, Adoptive Father, Foster Parent, and Other. For stakeholders, this could include: Mother's Attorney, Father's Attorney, Child's Attorney, District Attorney, Social Worker, Social Work Supervisor, CASA, and Other. This would allow expanded and more specific analyses of satisfaction indicators by participant and stakeholder types. For the *stakeholder survey*, applicable items (e.g., #5 and #6) should be broken

out to differentiate responses pertaining to clients and those who actually complete the surveys.

- b. *Review and improve participant and stakeholder survey question construction.* Questions on both the participant and stakeholder surveys should be reviewed with an eye to eliminating any double-barreled questions. A double-barreled question is a question composed of more than two separate issues or topics, but which can only have one answer. Double-barreled questions are confusing and there is no way to discern the true intentions of the respondent, rendering analysis difficult. Questions should also be reviewed for applicability to a given stakeholder's role. For example, attorneys for parents should not be asked whether they had the opportunity to voice their opinions, when their role is to voice the wishes of their clients.
- c. *Consider revising item #7 on the Participant Survey form into two questions, as follows: 1) "Did the mediator take steps during mediation to ensure that you were not ignored?" and, 2) Did the mediator take steps that made you feel important?"* While over 80% of participants responded positively to the existing item 7, it is the only survey item that asks respondents to "Strongly disagree" or "Disagree" in order to show positive feedback. This may confuse some participants and may mute a higher rate of positive responses.

2. ***Continue efforts to maximize the number of surveys submitted by participants and stakeholders following mediations.*** As shown in this process evaluation and previous mediation studies, satisfaction surveys continue to be important sources of relevant and valuable information for program administrators, mediators, key stakeholders, and others. Judges and Court Masters who order mediation, and mediators themselves, should continue to reinforce the importance of post-mediation survey completion.

3. ***Examine program implementation of, and adherence to, the existing protocol for mediation when domestic violence is an issue in a case.*** While a protocol for mediation in domestic violence cases exists, it is important to determine whether or not improvements to the protocol are needed to ensure it applies appropriately to the SJDC process and also whether the protocol is consistently applied in cases. Program administration should not only consider conducting additional training on the features of the protocol and how to implement it in cases, but should also gather information about what the current barriers are to fully implement the protocol. Furthermore, mediators should routinely and clearly document the specific things they are doing to follow the

protocol. For example, mediators could be asked to complete a “checklist” that details how the mediation protocol has been adhered to in each relevant case. Future evaluations of the SJDC mediation program can also be designed to determine the extent to which the domestic violence protocol has been followed.

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## **Appendix A**

### **Statewide Juvenile Dependency Mediation Program Protocol<sup>9</sup>**

#### **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.

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<sup>9</sup> The SJDC is part of the statewide mediation program and follows the same protocol.

- 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

## Second Judicial District Mediation Program 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**

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Mother Mother's Attorney

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Father Father's Attorney

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Social Worker Social Worker

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Social Worker, Permanency Worker Social Worker, Coordinator

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Social Worker, Supervisor Agency's Attorney

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

CASA Child

\_\_\_\_\_ (Date) \_\_\_\_\_ (Date)

Other, Relationship to Child/Case Other, Relationship to Child/Case

# Appendix C

## SJDC Participant Survey

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

### Juvenile Dependency Mediation

#### PARTICIPANT SURVEY

You recently participated in juvenile dependency mediation. We are interested in your experience of the juvenile dependency mediation service and any suggestions you may have. Your comments are important to us and will help improve our services.

- 1.) Today's Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_
- 2.) What is your relationship to the child?  
 Mother  
 Father  
 Child (Age: \_\_\_\_\_)  
 Other Family Member \_\_\_\_\_  
 Foster Parent \_\_\_\_\_  
 Other \_\_\_\_\_
- 3.) The mediator explained the mediation process clearly so I knew what to expect.  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 4.) Did you have a chance to voice your opinions?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 5.) Was an agreement reached?  
 Yes, on all issues  
 Yes, on some issues  
 No  
  
5A.) If no, why do you think an agreement could not be reached?  
\_\_\_\_\_  
\_\_\_\_\_  
  
5B.) If yes, do you think that the mediation agreement will work?  
\_\_\_\_\_  
\_\_\_\_\_
- 6.) Do you think the other people in mediation really listened to what you had to say?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 7.) Did you feel ignored or unimportant during the mediation?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 8.) Were you treated with respect?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 9.) Were you able to be a part of finding answers to the problems discussed?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 10.) Did the mediator treat everyone fairly?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 11.) What did you find most helpful?
- 12.) What did you find least helpful?
- 13.) Other comments or suggestions:

Thank you for taking the time to share your thoughts

## Appendix D SJDC Stakeholder Survey

### IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

#### Juvenile Dependency Mediation

#### SURVEY

You recently participated in juvenile dependency mediation on behalf of your client or agency. We are interested in your experience of the juvenile dependency mediation service and any suggestions you may have. Your comments are important to us and will help improve our services.

- 1.) Today's Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_
- 2.) What is your role in this case?  
 Mother's Attorney  
 Father's Attorney  
 Child's Attorney  
 District Attorney  
 Social Worker  
 CASA  
 Other \_\_\_\_\_
- 3.) What legal action is pending in this case?  
 Adjudicatory/Evidentiary Hearing  
 Disposition Hearing  
 6 Month Review Hearing  
 12 Month Review Hearing  
 Permanency Planning Hearing  
 Termination of Parental Rights  
 Other \_\_\_\_\_
- 4.) Did your session result in an agreement?  
 Yes, All Issues  
 Yes, Some Issues  
 No
- 4A.) If no, why do you think an agreement could not be reached?  
\_\_\_\_\_  
\_\_\_\_\_
- 4B.) If yes, how does the mediated agreement compare w/ court orders?  
\_\_\_\_\_  
\_\_\_\_\_
- 5.) Did you (or your client) have a chance to voice your opinions?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 6.) Do you think the other people in mediation really listened to what you (or your client) had to say?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 7.) Were you treated with respect?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 8.) Was your mediation session conducted fairly?  
 Yes, Strongly Agree  
 Yes, Agree  
 No, Disagree  
 No, Strongly Disagree
- 9.) What did you find most helpful about the mediation session?
- 10.) What did you find least helpful?
- 11.) Other comments or suggestions:

**Thank you for taking the time to share your thoughts**

## Appendix E

### Process Evaluation Research Questions

#### Participant

1. Is there a difference between relationship types (mother, father, child, etc. ) in:
  - a. Whether they felt the mediator explained the mediation process clearly?
  - b. Whether they had a chance to voice their opinions?
  - c. Whether they think other people in mediation really listened to what they had to say?
  - d. Whether they felt ignored or unimportant during mediation?
  - e. Whether they were treated with respect?
  - f. Whether they were able to be a part of finding answers to the problems discussed?
  - g. Whether the mediator treated everyone fairly?
2. Is there a difference between agreement type (full agreement, partial agreement, no agreement) in:
  - a. Whether they felt the mediator explained the mediation process clearly?
  - b. Whether they had a chance to voice their opinions?
  - c. Whether they think other people in mediation really listened to what they had to say?
  - d. Whether they felt ignored or unimportant during mediation?
  - e. Whether they were treated with respect?
  - f. Whether they were able to be a part of finding answers to the problems discussed?
  - g. Whether the mediator treated everyone fairly?
3. Is there a relationship between relationship types (mother, father, child, etc. ) and whether an agreement was reached?
4. Is there a relationship between pre/post 2014 surveys and whether an agreement was reached?
5. Is there a relationship between pre/post 2014 surveys and which relationship type (mother, father, child, etc. ) was present?
6. Is there a difference between pre/post 2014 surveys in:
  - a. Whether they felt the mediator explained the mediation process clearly?
  - b. Whether they had a chance to voice their opinions?
  - c. Whether they think other people in mediation really listened to what they had to say?
  - d. Whether they felt ignored or unimportant during mediation?
  - e. Whether they were treated with respect?
  - f. Whether they were able to be a part of finding answers to the problems discussed?
  - g. Whether the mediator treated everyone fairly?
7. Is there an association between the questions asked?
  - a. The mediator explained the mediation process clearly so I knew what to expect.
  - b. Did you have a chance to voice your opinions?
  - c. Do you think the other people in mediation really listened to what you had to say?
  - d. Did you feel ignored or unimportant during the mediation?
  - e. Were you treated with respect?
  - f. Were you able to be a part of finding answers to the problems discussed?
  - g. Did the mediator treat everyone fairly?

## Stakeholder

8. Is there a difference between role (deputy district attorney, mother's attorney, father's attorney, social worker, social worker supervisor, CASA, etc. ) in:
  - a. Whether they or their client had a chance to voice their opinions?
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - c. Whether they were treated with respect?
  - d. Whether their mediation session was conducted fairly?
9. Is there a difference between agreement type (full agreement, partial agreement, no agreement) in:
  - a. Whether they or their client had a chance to voice their opinions?
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - c. Whether they were treated with respect?
  - d. Whether their mediation session was conducted fairly?
10. Is there a difference between the legal action pending in the case in:
  - a. Whether they or their client had a chance to voice their opinions?
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - c. Whether they were treated with respect?
  - d. Whether their mediation session was conducted fairly?
11. Is there a difference between pre/post 2014 surveys in:
  - a. Whether they or their client had a chance to voice their opinions?
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - c. Whether they were treated with respect?
  - d. Whether their mediation session was conducted fairly?
12. Is there a relationship between pre/post 2014 surveys and:
  - a. Whether an agreement was reached?
13. Is there an association between the questions asked?
  - a. Did you (or your client) have a chance to voice your opinions?
  - b. Do you think the other people in mediation really listened to what you (or your client) had to say?
  - c. Were you treated with respect?
  - d. Was your mediation session conducted fairly?
14. Is there a relationship between stakeholder role (deputy district attorney, mother's attorney, father's attorney, social worker, social worker supervisor, CASA, etc.) and if an agreement was reached?

## Appendix F

### Results and Statistical Analyses

#### Participant

1. Is there a difference between relationship types (mother, father, child, etc.) in:
  - a. Whether they felt the mediator explained the mediation process clearly?
    - i. There was a significant difference between groups for whether the individual felt that people in the mediation really listened to what they had to say,  $F(5, 436) = 3.36, p < .01$ . A Tukey post hoc test revealed that there was a difference between fathers and foster parents ( $p < .01$ ) as well as other and foster parents ( $p = .01$ ) for whether mediation was clearly explained – foster parents felt that mediation was more clearly explained.
  - b. Whether they had a chance to voice their opinions?
    - i. There was a significant difference between groups for whether the individual felt they had a chance to voice their opinions,  $F(5, 429) = 4.11, p < .01$ . A Tukey post hoc test revealed that there was a difference between mothers and foster parents ( $p < .01$ ) as well as fathers and foster parents ( $p < .01$ ) for whether they had a chance to voice their opinions – foster parents felt that they had more of a chance to voice their opinions.
  - c. Whether they think other people in mediation really listened to what they had to say?
    - i. There was a significant difference between groups for whether the individual thought that other people in mediation really listened to what they had to say,  $F(5, 425) = 5.48, p < .01$ . A Tukey post hoc test revealed that there was a difference between mothers and foster parents ( $p < .01$ ), fathers and foster parents ( $p < .01$ ), and foster parents and others ( $p = .02$ ) for whether they felt listened to – foster parents felt they were listened to more.
  - d. Whether they felt ignored or unimportant during mediation?
    - i. There was a significant difference between groups for whether the individual felt ignored or unimportant during the mediation,  $F(5, 421) = 3.42, p < .01$ . A Tukey post hoc test revealed that there was a difference between mothers and foster parents ( $p = .01$ ), fathers and foster parents ( $p = .03$ ), other family members and foster parents ( $p = .02$ ) for whether they felt unimportant during mediation – mothers, fathers, and other family members felt more unimportant.
  - e. Whether they were treated with respect?
    - i. There was a significant difference between groups for whether the individual thought they were treated with respect,  $F(5, 425) = 6.26, p < .01$ . A Tukey post hoc test revealed that there was a difference between mothers and foster parents ( $p < .01$ ), fathers and foster parents ( $p < .01$ ), other family members and foster parents ( $p = .04$ ), and other and foster parent ( $p = .01$ ) for whether they were treated with respect – foster parents felt they were treated more respectfully.
  - f. Whether they were able to be a part of finding answers to the problems discussed?



- d. Whether they felt ignored or unimportant during mediation?
    - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt ignored or unimportant during mediation,  $F(2, 420) = 11.82, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and no agreement ( $p < .01$ ) as well as partial agreement and no agreement ( $p < .01$ ) for whether they felt ignored or unimportant during mediation – those who reached full and partial agreement felt less ignored than those who reached no agreement.
  - e. Whether they were treated with respect?
    - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt that they were treated with respect,  $F(2, 424) = 23.63, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ( $p < .01$ ), full agreement and no agreement ( $p < .01$ ), as well as partial agreement and no agreement ( $p = .03$ ) for whether they felt that they were treated with respect – those who reached full agreement felt treated with respect more than those who reached partial agreement or no agreement. Additionally, those who reached partial agreement felt that they were treated with respect more than those who reached no agreement.
  - f. Whether they were able to be a part of finding answers to the problems discussed?
    - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt that they were able to be a part of finding answers to the problems discussed,  $F(2, 421) = 75.26, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ( $p < .01$ ), full agreement and no agreement ( $p < .01$ ), as well as partial agreement and no agreement ( $p < .01$ ) for whether they felt that they were able to be a part of finding answers to the problems discussed – those who reached full agreement felt that they were able to be a part of finding answers to the problems discussed more than those who reached partial agreement or no agreement. Additionally, those who reached partial agreement felt that they were able to be a part of finding answers to the problems discussed more than those who reached no agreement.
  - g. Whether the mediator treated everyone fairly?
    - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual that the mediator treated everyone fairly,  $F(2, 425) = 9.50, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and no agreement ( $p = .01$ ) as well as partial agreement and no agreement ( $p < .01$ ) for whether they felt the mediator treated everyone fairly – those who reached full and partial agreement felt that the mediator treated everyone fairly more than those who reached no agreement.
3. Is there a relationship between relationship types (mother, father, child, etc.) and whether an agreement was reached?
- a. The assumptions for a chi-square were assessed and satisfied. The results indicated that there was not a statistically significant association between relationship type and agreement,  $\chi(10) = 17.53, p > .05$ .

4. Is there a relationship between pre/post 2014 surveys and whether an agreement was reached?
  - a. The assumptions for a chi-square were assessed and satisfied. The results indicated that there was not a statistically significant association between pre/post 2014 surveys and agreement,  $\chi(10) = 17.53, p > .05$ .
5. Is there a relationship between pre/post 2014 surveys and which relationship type (mother, father, child, etc. ) was present?
  - a. The assumptions for a chi-square were assessed and satisfied. The results indicated that there was a statistically significant association between survey date (pre/post 2014) and relationship,  $\chi(5) = 11.55, p > .05$ . Post hoc tests indicate that pre/post 2014 was associated with more “other family members” showing up pre-2014.
6. Is there a difference between pre/post 2014 surveys in satisfaction questions?
  - a. There was no difference between pre-2014 and post-2014 surveys for any of the satisfaction questions ( $p > .05$ ).
7. Is there an association between the questions asked?
  - a. All of the satisfaction questions were correlated with one another ( $p = .01$ ).

### **Stakeholder**

8. Is there a difference between stakeholder role (deputy district attorney, mother’s attorney, father’s attorney, social worker, social worker supervisor, CASA, etc. ) in:
  - a. Whether they or their client had a chance to voice their opinions?
    - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they had a chance to voice their opinions ( $p > .05$ ).
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
    - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they were really listened to ( $p > .05$ ).
  - c. Whether they were treated with respect?
    - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt they were treated with respect ( $p > .05$ ).
  - d. Whether their mediation session was conducted fairly?
    - i. The results indicated that there was not a statistically significant difference between roles for whether the individual felt the mediation session was conducted fairly ( $p > .05$ ).
9. Is there a difference between agreement (full agreement, partial agreement, no agreement) in:
  - a. Whether they or their client had a chance to voice their opinions?
    - i. The results indicated that there was a statistically significant difference between agreement types for whether the individual felt they had a chance to voice their opinions,  $F(2, 455) = 16.45, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement

and partial agreement ( $p = .01$ ) as well as full agreement and no agreement ( $p < .01$ ) for whether mediation was clearly explained – those who reached full agreement felt that they had a chance to voice their opinions more than those who reached partial agreement or no agreement.

- b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - i. The results indicated that there was a statistically significant difference between roles for whether the individual felt they were really listened to,  $F(2, 453) = 27.89, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ( $p = .01$ ), full agreement and no agreement ( $p < .01$ ), and partial agreement and no agreement ( $p < .01$ ) for whether the other people in mediation really listened to what they or their client had to say – those who reached full agreement felt that other people in mediation really listened to what they or their client had to say more than those who reached partial agreement or no agreement. Additionally, those who reached partial agreement felt that other people in mediation really listened to what they or their client had to say more than those who reached no agreement.
- c. Whether they were treated with respect?
  - i. The results indicated that there was a statistically significant difference between roles for whether the individual felt they were treated with respect,  $F(2, 454) = 16.03, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ( $p < .01$ ) as well as full agreement and no agreement ( $p < .01$ ) for they felt they were treated with respect – those who reached full agreement felt that they were treated with respect more than those who reached partial agreement or no agreement.
- d. Whether their mediation session was conducted fairly?
  - i. The results indicated that there was a statistically significant difference between roles for whether the individual felt the mediation session was conducted fairly,  $F(2, 456) = 13.19, p < .01$ . A Tukey post hoc test revealed that there was a difference between full agreement and partial agreement ( $p = .01$ ) as well as full agreement and no agreement ( $p < .01$ ) for whether mediation was conducted fairly – those who reached full agreement felt that they felt that mediation was conducted fairly more than those who reached partial agreement or no agreement.

10. Is there a difference between the legal action pending in the case in:

- a. Whether they or their client had a chance to voice their opinions?
  - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they had a chance to voice their opinions ( $p > .05$ ).
- b. Whether they think the other people in mediation really listened to what they or their client had to say?
  - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they were really listened to ( $p > .05$ ).
- c. Whether they were treated with respect?

- i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual felt they were treated with respect ( $p > .05$ ).
    - d. Whether their mediation session was conducted fairly?
      - i. The results indicated that there was not a statistically significant difference between legal actions for whether the individual the mediation session was conducted fairly ( $p > .05$ ).
11. Is there a difference between pre/post 2014 surveys in:
- a. Whether they or their client had a chance to voice their opinions?
    - i. The study found that there was no difference between whether individuals felt they had a chance to voice their opinions before or after 2014 ( $p > .05$ ).
  - b. Whether they think the other people in mediation really listened to what they or their client had to say?
    - i. The study found that there was no difference between whether individuals felt they were really listened to before or after 2014 ( $p > .05$ ).
  - c. Whether they were treated with respect?
    - i. The study found that there was no difference between whether individuals felt they were treated with respect before or after 2014 ( $p > .05$ ).
  - d. Whether their mediation session was conducted fairly?
    - i. The study found that there was no difference between whether individuals felt the mediation was conducted fairly before or after 2014 ( $p > .05$ ).
12. Is there a relationship between pre/post 2014 surveys and:
- a. Whether an agreement was reached?
    - i. The results indicated that there was not a statistically significant association between survey date (pre/post 2014) and agreement,  $\chi(2) = .42, p > .05$ .
13. Is there an association between the questions asked?
- a. All of the satisfaction questions were correlated with one another ( $p = .01$ ).
14. Is there a relationship between stakeholder role (deputy district attorney, mother's attorney, father's attorney, social worker, social worker supervisor, CASA, etc.) and if an agreement was reached?
- a. The assumptions for a chi-square were assessed and satisfied. The results indicated that there is not a statistically significant association between stakeholder role and agreement,  $\chi(14) = 9.85, p > .05$ .

## **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 to 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 to 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 to 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