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Nevada Statewide Juvenile Dependency Mediation Outcome Evaluation

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Nevada Statewide Juvenile Dependency Mediation Evaluation

Executive Summary

The current evaluation builds on the existing knowledge base of the effectiveness of Nevada's Juvenile Dependency Mediation Program, and existing body of evidence for its success established by past evaluations by: providing information on whether Nevada's
Juvenile Dependency Mediation Program continues to provide the benefits for which the program was established; providing feedback to the courts and mediation program on what improvements can be made to program implementation to provide better service to those who participate in the program (including parents, family, and professional stakeholders) and to improve impacts on case processing and outcomes; and to identify next steps in terms of data collection efforts to ensure sustainable performance measurement and enhance program evaluation for future years.

The evaluation used a mixed method approach to examine the effectiveness of the statewide juvenile dependency mediation program. All judicial districts had an opportunity to participate in some of the data collection for the evaluation. These data collection efforts included needs assessment surveys of court professionals, surveys of mediators, and a secondary analysis of mediation data. Most judicial districts have not held a sufficient number of mediations to be part of all the data collection efforts in this study. Therefore, a case file review method strategically targeted the judicial districts that had held the most mediations. This included the 1st, 2nd, 5th, and 8th judicial districts. It should be noted that the 10th judicial district had a sufficient sample of cases but was unable to participate in data collection at the time that data collection was occurring.

Key Findings

Looking at specific program goals for which evaluation data were available, the current study found:

Goal: To create a settlement process which is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model. The study found during July 2, 2016 – May 2019:

- Mediation is providing the majority of both non-professional (i.e., mothers and fathers) and professional stakeholders (i.e., CASA, attorneys and social workers) with a voice in the court process. Furthermore, the majority of non-professional and professional stakeholders also felt they were treated fairly, treated with respect, and were really listened to in the mediation. See Table 1 below; See also Table 4 on pg. 18.

Table 1: Mediation Participant Experience with Mediation: Percent of Mediation Participants Indicating Agreement (Agree or Strongly Agree) by Role				
Role	Had Opportunity to Voice Opinions	Treated Fairly	Treated with Respect	Really Listened To
Mothers (n=150)	96%	100%	95%	87%
Fathers (n=96)	94%	98%	95%	86%
CASA (n=34)	94%	100%	100%	97%
Child's Attorney (n=161)	97%	99%	98%	93%
DA/AG (n=250)	97%	99%	99%	98%
Mother's Attorney (n=194)	99%	96%	99%	94%
Father's Attorney (n=151)	93%	97%	95%	91%
Social Worker (n=250)	99%	99%	99%	84%

Goal: To reduce litigation. The study found:

- A high agreement rate with 74% of mediations resulting in an agreement of some sort (60% full agreement and 14% partial agreement).

Goal: To increase resolution of dependency case issues. The study found:

- Mediated termination of parental rights (TPR) cases were significantly more likely to end with a voluntary relinquishment (67% for mothers and 53% for fathers) when compared to non-mediated cases (42% for mothers and 20% for fathers).
- Mediated cases had significantly more post-adoption contact (70%) when compared to non-mediated cases (10%).
- In mediated cases, 54% of the post-adoption contact orders for mothers and 43% of the post-adoption contact orders for fathers referenced some opportunity to visit with the child, compared with only 7% (for mothers) and 0% (for fathers) of post-adoption contact orders when the case was not mediated.

Goal: To improve a child's time to permanency. The study found:

- Mediated cases took significantly longer from TPR petition filing to a TPR order (183 days) compared to non-mediated cases (98 days).
- Mediated cases took less time from TPR order to adoption (273 days) when compared to non-mediated cases (383 days).
- There were no differences in time to permanency for mediated compared to non-mediated cases.

This study also conducted a preliminary cost-benefit analysis of the statewide Juvenile Dependency Mediation Program and found:

- The majority of stakeholders believe mediation reduces their workload (69%), and significant time savings were found for professional stakeholders in terms of time spent in mediation vs. time spent in contested trials.
- Looking only at TPR cases, in the last three years 123 mediations have resulted in the court vacating the next hearing (TPR trial) following the mediation. Based on court estimates of the cost of court time, this represents a cost savings of $442,800 in the last three years just for TPR cases alone (July 2016 to May of 2019).

Goals not addressed in the study included:

- Improve permanency outcomes for children.
- Decrease out of home placement moves for children.

As demonstrated by this study's findings and past evaluations of Nevada's statewide Juvenile Dependency Mediation Program, mediation continues to have positive impacts on case processing and permanency timelines. The mediation process provides an effective forum for timely agreement and resolution of issues, as well as an important opportunity for participants to have a voice in the case process and become more fully engaged in their case. Recommendations for areas of continued program improvement are discussed in the body of the report, and include suggestions related to the program's implementation, the mediators (i.e., mediation quality), future data collection and evaluation efforts, and, because mediation in Nevada is most frequently used at the TPR stage of the case process, recommendations to increase the use of the Juvenile Dependency Mediation Program in earlier stages of the case.

Recommendations

Recommendation are suggested in several areas related to the mediation process, data collection, understanding current findings, and future evaluation efforts. These include:

- Continue to work with sites to enhance and formalize referral process.
- Increase mediator training opportunities for specific topics relevant to child welfare cases.
- Consider evaluating the relationship between specific mediation behaviors and their relationship to case agreement and outcomes.
- Consider expanding the feedback loops to provide feedback to all of the mediators about their current practice and areas for improvement.
- Consider additional training of all on how to enter information on the Case Data Sheet and development of a data entry protocol to ensure consistent responses.
- Consider revising the parent/participant survey to focus on mediation quality.
- Consider modifying the stakeholder survey. The data have been fairly consistent for three years and are not providing additional value at this time compared to the

burden on stakeholders. Ensure future stakeholder surveys ask only the most relevant questions for mediator and mediation quality assessment and continuing program improvement.

- Consider holding a focus group of study participants (CICs) to identify their theories around why mediated cases take longer at some points, and do not result in timelier permanency.
- Continue to prioritize the use of mediation for earlier points in the case process, such as the adjudication phase and disposition or case planning.
- Consider ideas for future data collection efforts to support understanding of effectiveness on goals that could not be measured at this time.

Nevada Statewide Juvenile Dependency Mediation Outcome Evaluation

Introduction

The use of court-based mediation in child protection (juvenile dependency) cases has spread widely across the country over the last two decades as a tool to resolve disputes and expedite the permanency process for children involved in the child welfare system. As a substitute for contested judicial hearings, juvenile dependency mediation is a process in which specially trained neutral third-party intermediaries facilitate the resolution of child abuse and neglect issues by bringing together, in a confidential setting, the family, social workers, attorneys, and others involved in a case. Mediators facilitate the exploration of issues related to the child or children, with the goal of producing mutually agreeable solutions among the parties (e.g., Barsky and Trocme, 1998; Menkel-Meadow et. al, 2018; Stack, 2003). When an agreement is reached, it is presented to the court, which has the authority to accept, reject, or modify the agreement. The process is meant to be collaborative, with the goal of avoiding litigation and resolving the issues in the least adversarial manner possible (Menkel-Meadow et al., 2018).

The goals of juvenile dependency mediation programs are typically to:

- Expedite permanency for children;
- Shorten the amount of time that a child stays in foster care;
- Improve case plans and the case planning process;
- Increase the effectiveness of court hearings;
- Increase compliance with child protection plans of care or court orders; and
- Reduce state costs connected with dependency-neglect cases.

Evaluations of juvenile dependency mediation programs indicate that mediation produces many positive case process and outcome benefits. For example, research has demonstrated that juvenile dependency mediation results in high levels of agreement/reaching consensus (Nasworthy and Tarver, 2005; Thoennes and Pearson, 1995) and that the resolutions reached in mediation are more detailed and better tailored to the needs of the children and family (e.g., Eaton et al., 2007; Gatowski et al., 2005; Anderson and Whalen, 2004; Kierkus and Johnson, 2019; Thoennes and Pearson, 1995). In addition, research has found juvenile dependency mediation to promote cooperation and compromise leading to greater compliance with the terms of the mediated agreement (e.g., Eaton et al., 2007; Kierkus and Johnson, 2019). Parents and family members who participate in juvenile dependency mediations report satisfaction with their experience, describing the process as productive and helpful (e.g., Eaton et. al, 2007; Gatowski et al., 2005; Kierkus and Johnson, 2019; Nasworthy and Tarver, 2005; Thoennes, 2001; Thoennes and Pearson, 2005). Mediation has been found to have a positive impact on the court environment as well, with stakeholders reporting improved relationships

between attorneys and social workers because of their participation in mediation (Dobbin et al., 2001; Nasworthy and Tarver, 2005).

Research examining child juvenile dependency mediation has been shown mediation to result in faster resolution of child abuse and neglect cases when compared to cases that go to trial, with a number of evaluations finding that mediated cases progress to permanency more quickly and with less involvement of the court when compared to other cases (Anderson and Whalen, 2004; Colman and Ruppel, 2007; Eaton et al., 2007; Kierkus and Johnson, 2019; Koh, 2004; Gatowski et. al, 2005; Thoennes, 2001). In addition, while difficult to quantify, there is growing evidence that mediation may reduce costs associated with child abuse and neglect case processing by lessening the time that parties spend preparing for court hearings, reducing the number of contested hearings required in cases, providing more timely reunification and decreased re-entry into foster care (e.g., Bernstein, 1998; Center for Policy Research, 1998; Giovannucci, 2007; Nasworthy and Tarver, 2005; Supreme court of Virginia, 2002).

Juvenile Dependency Mediation in Nevada

Juvenile dependency mediation is implemented in all judicial districts in Nevada. It is a non-adversarial process facilitated by two neutral co-mediators who facilitate communication among those involved in a case while also working to ensure that all have a say in the outcome. Those in attendance are generally the natural parents; the foster parents (if applicable); other family members closely involved in the child's life; the attorney for the child, the attorneys for the parents, the district attorney, and the caseworker assigned to the case. Each is given the opportunity to share his or her view on the case, as well as express any concerns about issues going forward. Cases can be referred to mediation pre or post-adjudication, with TPR cases also eligible for mediation. Specifically, mediation in Nevada may focus on whether or not court jurisdiction is appropriate, petition language, services for children and parents, visitation, placement options, educational issues, reunification plans, permanency plans, dismissal orders, termination of parental rights, post-adoption contact, and any issues that are barriers to permanency (Program grant application for Victims of Crime Act (VOCA) grant).

Juvenile dependency mediation in Nevada has demonstrated considerable success at achieving its case processing and outcome goals. Previous research examining mediation in Nevada (e.g., Summers, Wood, Bohannan, Gonzalez, & Sicafuse, 2013; Summers, Wood, & Bohannan, 2013), for example, 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) satisfaction with and engagement in the case process, and improve juvenile dependency case outcomes in a non-adversarial manner (i.e., improved reunification rates and timeliness of permanency

outcomes). A more recent Nevada mediation study of the 2nd Judicial District found that although mediated cases were more likely to result in reunification with both parents, and were more likely to result in adoption than non-mediated cases, no significant differences in time to permanency were found (Ganasarajah et al., 2017).

None of the past studies focus on outcomes related to the iteration of the statewide juvenile dependency mediation program that was implemented in Nevada in 2016 and rolled out to all counties by 2017. The current study builds on past evaluations of child protection mediation in Nevada, to provide additional and nuanced perspectives on the implementation and effectiveness of the statewide juvenile dependency mediation program. The research was conducted with the following goals in mind:

1. To provide information on whether Nevada's juvenile dependency mediation program is providing the benefits for which the program was established, including
    a. To create a settlement process which is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model;
    b. To reduce litigation;
    c. To improve a child's time to permanency;
    d. To increase resolution of dependency case issues;
    e. To improve permanency outcomes for children;
    f. To decrease out of home placement moves for children; and
    g. To allow and promote meaningful participation of children and youth in the dependency case process.
2. To provide feedback to the courts and mediation program on what improvements can be made to provide better service to those who participate in the program, including family members, judicial officers, attorneys, caseworkers and mediators; and
3. To identify next steps in terms of data collection efforts to ensure sustainable performance measurement for future years.

Method

The mediation evaluation used a mixed method approach to examine the effectiveness of the statewide juvenile dependency mediation program. All judicial districts had an opportunity to participate in some of the data collection for the mediation evaluation. These data collection efforts included surveys of court professionals, surveys of mediators, and secondary analysis of mediation data. Most judicial districts have not held a sufficient number of mediations to be part of all the data collection efforts. Therefore, the casefile review methodology strategically targeted the judicial districts that had held the most mediations. This included the 1st, 2nd, 5th, and 8th judicial districts (JD). It should be noted that the 10th JD had a sufficient sample of cases but was unable to participate in data collection at the time that data collection was occurring. Each method is described in more detail below.

Surveys. Surveys are a research method used for collecting data from a specific group of respondents to gain information about a topic of interest. There were multiple surveys created and implemented as part of this evaluation. These surveys were designed by the research team with input from the Court Improvement Program and program administrator. All surveys were created on the Survey Monkey platform and disseminated to respondents via email. The surveys included:

- *Needs Assessment Survey*. A needs assessment is a systematic process used to determine gaps. In this context, the gaps are the knowledge base of what is known about the effectiveness of mediation in Nevada. The needs assessment was the first step in the mediation evaluation, as it was important to consider what the gaps were in what was known about mediation's effectiveness and what stakeholders believed the effectiveness to be. This was a two-step process. In the first step, stakeholders from each judicial district (e.g., judges, attorneys, agency workers) were asked about their perceptions of the effectiveness of mediation). These questions specifically focused on the mediation process (how referrals are made), the decision-points in the case where stakeholders perceived that mediation would be most effective, and the types of outcomes they believed mediation could affect in their district. The survey was sent out via the Community Improvement Council (CIC) list serve to all judicial districts, with a request to share with other professionals. The second step in this process was to use the information generated from the needs assessment to identify outcome measures that could be collected for the project within the project timeframe.
- *Mediator Survey*. The research team also developed a mediator survey, designed specifically for mediators who have mediated juvenile dependency mediations in Nevada. The mediation survey asked mediators about their experience mediating cases, amount of training, number of mediations, mediation framework, and mediation practice. The survey was sent via email to all the mediators who have ever facilitated a juvenile dependency mediation in Nevada.
- *Cost Survey*. Researchers also created a cost study survey to send to all professionals who participate in mediation (except the mediator). Typically, the district attorney, parent's attorney, advocate or attorney for the child, and the agency caseworker all participate in mediations. The cost study was designed to ask participants a series of questions about their perception of the cost of mediation in relation to the cost of a similar case that does not go to mediation. While participants were asked to respond to some questions in dollar amounts, responses varied widely and were not equitable enough to make comparisons.

Case File Review. Researchers conducted a case file review to explore case outcomes for mediated cases. Case file review involves reviewing the court case file using a standardized instrument to examine specific variables. The case file review focused primarily on TPR cases, as the majority of mediations were focused on termination of parental rights. Data were also collected on cases that mediated original petition

allegations (i.e., mediation prior to adjudication in the case), although this sample was small. The sample size for the case file review included a random sample of mediated cases and a random sample of non-mediated cases for comparison. The sample size varied by judicial district, with larger districts (such as the 8th JD) providing a larger sample of cases.

Secondary Data Review. Data collection also included a review of secondary data. Mediators collect data from each case that is mediated, entering data about the mediation into a Case Data Sheet. The data sheet includes information on the mediation start and stop time, focus of the mediation, outcome, as well as information on the family. Mediators also distribute surveys after every mediation to the participants (e.g., mother, fathers, caregivers) as well as the professionals (e.g., attorneys, caseworkers), who attend the mediation. Participants are given a different survey than professionals. All of these surveys are collected at the conclusion of the mediation. For this study, researchers took the pdfs of the original paper documents for both the Case Data Sheets and all participant surveys and entered those data into Survey Monkey so that all of the data could be analyzed. This produced a dataset for all mediations that had documentation from July 2016 to May of 2019.

Sample

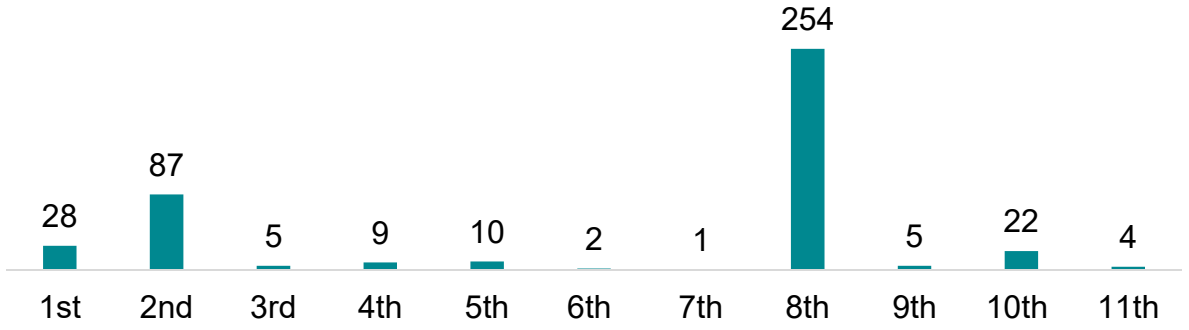
The final sample for the study (see Table 2 and Figure 1 on pg. 10) consisted of data from six unique data sets (described above), all contributing to the evaluation findings. The case file review sample was explored to determine if the mediation and non-mediation samples were equivalent. Samples were compared on the type of allegations that brought the family before the court as well as the type and number of presenting problems noted about the family on the petition. Only one difference emerged. Mediated cases were significantly more likely to have an indication of mother (28%) or father (16%) being homeless in comparison to non-mediated cases (14% and 6% respectively). The number of presenting problems was statistically similar. This indicates, for the most part, the samples were similar in the nature of the issues.

Table 2. Sample Descriptions for Datasets Used in Study

Dataset	Sample Size	Judicial Districts Represented	Participant /Case Information
Survey: Needs Assessment	42	All	Judicial officers = 25% Attorney for parent or child = 24% District attorney = 14% CASA =18% Agency = 27%
Survey: Mediator Survey	13	All	Mediators
Survey: Cost Study	34	All	Judicial officers = 17%

Table 2. Sample Descriptions for Datasets Used in Study Dataset	Sample Size	Judicial Districts Represented	Participant /Case Information
			Attorney for parent or child = 29% District attorney = 9% CASA =31% Agency = 6% Other/did not answer=8%
Case File Review	175	1st, 2nd, 5th, 8th	82 Mediated Cases 93 Non-Mediated Cases 1st = 38 Cases 2nd = 47 Cases 5th = 9 Cases 8th = 81 Cases
Secondary Data: Case Data Sheets	427	All	(see Figure 1)
Secondary Data: Mediation Surveys	1774	All	539 Participants 1235 Pro Stakeholders

Figure 1: Number of Mediations per Judicial District (July 2016 - May 2019) According to Case Data Sheets (n=427)

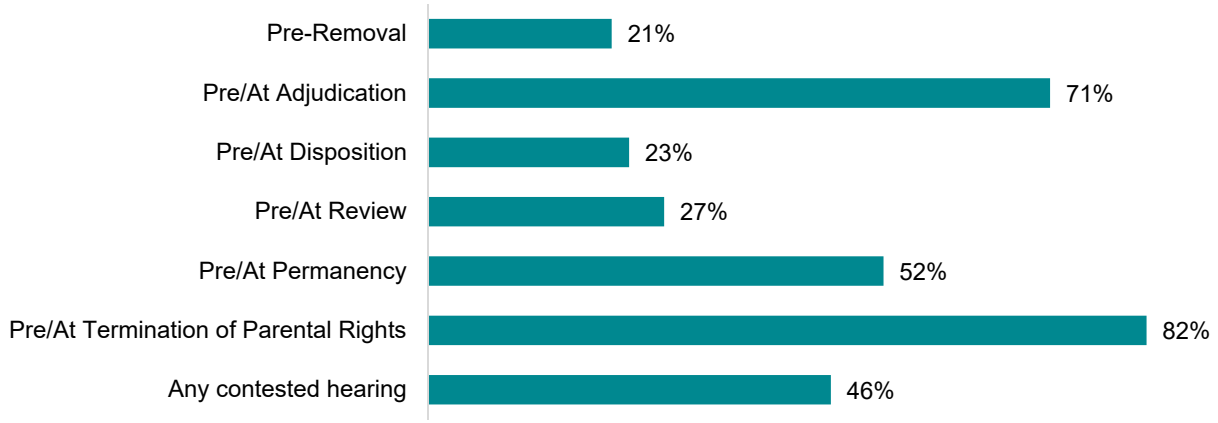


Needs Assessment

The needs assessment was the first step in the evaluation process and was used to inform data collection and analysis of all other data sources. The first part of the needs assessment asked participants how likely they are to recommend mediation and what point in the case they felt mediation was most useful. Participants rated their likelihood of recommending mediation on a scale ranging from 0 to 100%. Scores ranged from 50% to 100% "likely to recommend," with an overall average of 89% "likely to recommend" use of mediation. This indicates most participants were in favor of mediation. Participants identified the decision points they felt were most useful for mediation. As noted in Figure 2, the majority believed mediation was most useful at TPR (82%), followed by pre/at adjudication (71%). Just over half

of participants reported that mediation was most useful either pre/at the permanency hearing stage of the case (52%).

Figure 2: Decision Points Identified as Most Useful for Mediation (n=42)



In the needs assessment, stakeholders from all the judicial districts were asked about potential effects of mediation. It was important that outcomes beyond "agreement" were identified and measured in a meaningful way. Needs assessment survey respondents were asked to indicate which outcomes were most relevant for mediation. Figures, 3, 4, and 5 (on pages 12-13) illustrate the percentage of respondents that identified case related outcomes, stakeholder related outcomes, and family and child related outcomes as relevant for mediation.

Figure 3: Mediation Case Related Outcomes Identified as Relevant by Respondents (N=42)

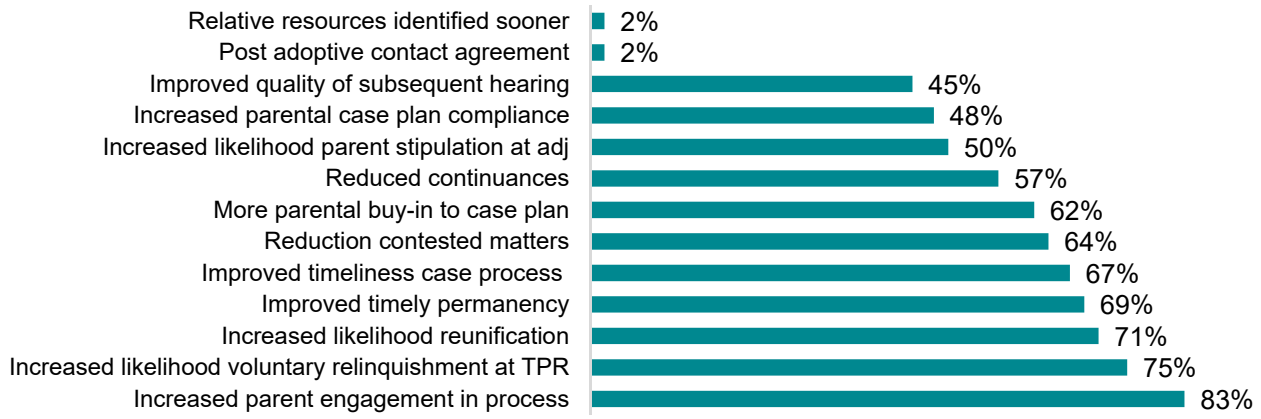


Figure 4: Mediation Stakeholder Related Outcomes Identified as Relevant by Respondents (N=42)

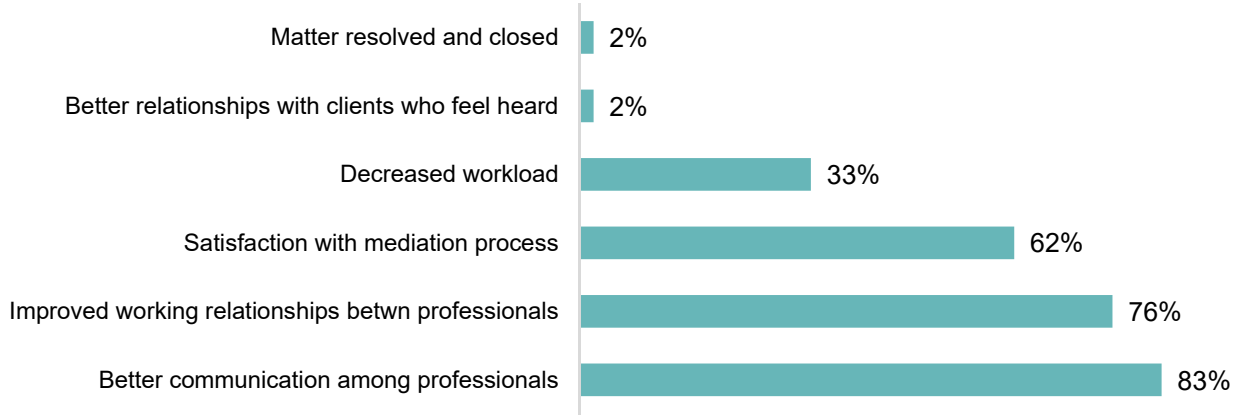
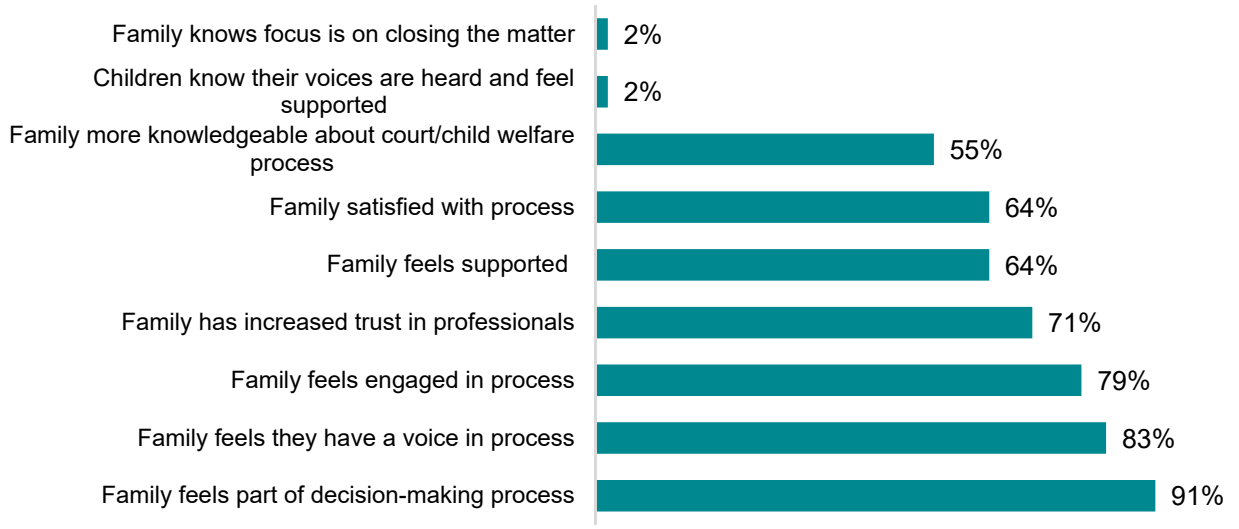


Figure 5: Mediation Family and Child Related Outcomes Identified as Relevant by Respondents (N=42)



The most relevant outcomes for mediation identified by respondents were reviewed to determine what data could be collected via the methods available to researchers within the timeframe of the study. The following case outcomes were identified as both relevant (by respondents) and available from potential data sources. These included:

- Voice
  - Parent voice in the process
  - Parent feels part of decision-making
- Increased parent engagement
- Timeliness of case processing
  - Reduced continuances

    - Reduced contested matters
    - Timely case processing
    - Timelier permanency
- Increased likelihood of voluntary relinquishment at TPR

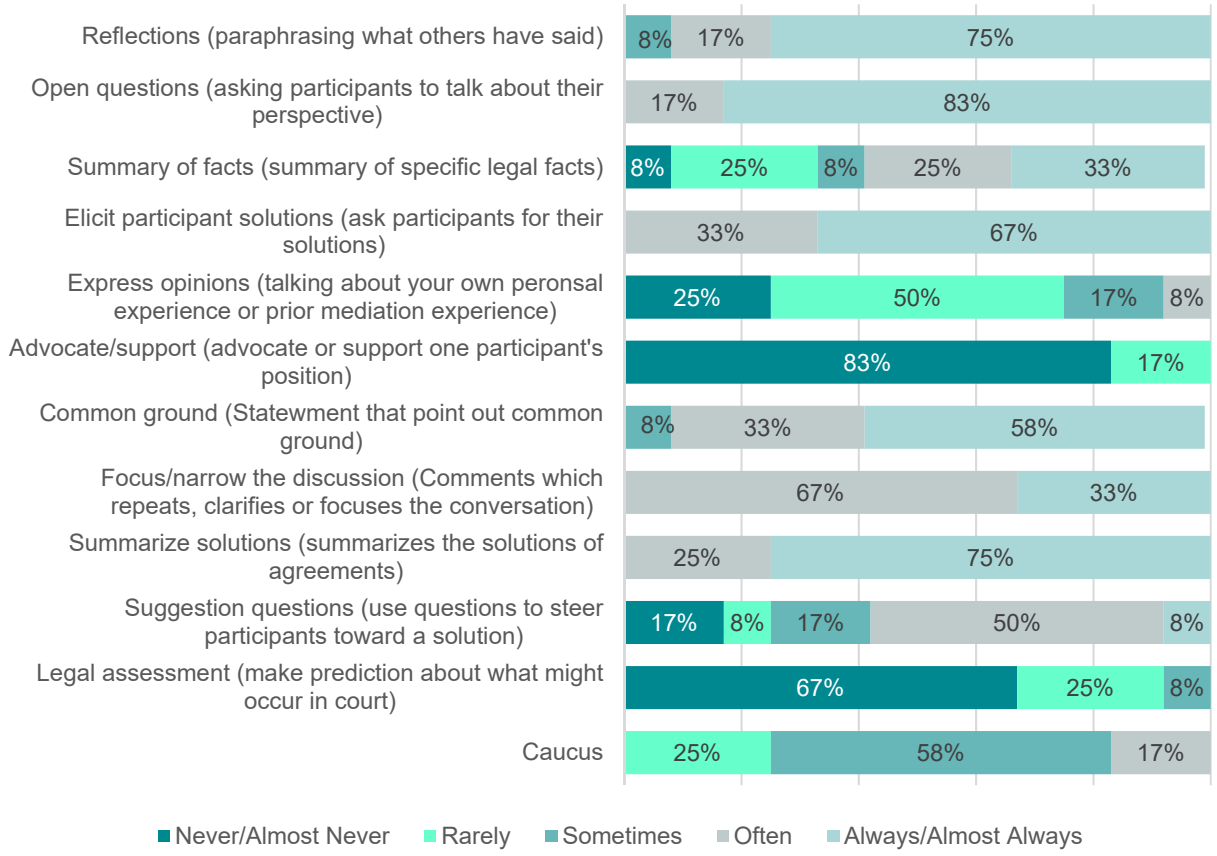
In addition, there were a few outcomes that the Court Improvement Program and the researchers identified as "of interest" that were not identified as highly relevant by the needs assessment respondents. These included decrease in workload (only identified by 33% of respondents) and post-adoption contact (only identified as relevant by 2% of respondents). The Court Improvement Program was interested in a cost/benefit analysis of the mediation program. Exploring decreases in workload from a cost savings perspective was useful to better determine if mediations have the potential to be cost effective. In addition, informal conversations with mediators and program staff revealed that a large portion of the cases were referred to mediation for post-adoption contact. As such, both of these items were added to the list of relevant measures for the evaluation.

Mediation Survey

The current evaluation captured some information about mediators via survey. Specifically, 13 mediators completed a survey, representing mediators in each of the judicial districts except the 5th and the 7th. Some mediators reported that they sometimes serve in other roles including judge (1), attorney for the parent (2), and CASA (1). Mediator experience ranged from 1-20 years, with an overall average of 6.7 years. Sixty-nine percent of mediators indicated that they had more than 100 hours of mediation training, and all mediators indicated that they had training specific to juvenile dependency cases. Fifty percent of the mediators reported that they can bill their time for mediation when the parents do not show up; compared to 42% who said they could not bill for their time and 8% who said they could bill for half of their time. The data from the mediator's survey was meant to provide a better understanding of the current mediators in Nevada and to be used to inform considerations for future evaluation efforts. In terms of this study, it provides some basic descriptive information on mediator frameworks and behaviors.

Mediators were asked about their primary mediation framework. All of the mediators said their framework was facilitative, while an additional 17% said their framework was also inclusive and another 8% indicated their framework was transformative. In terms of process, most said they liked the co-mediation model or that they had no preference. Seventy-five percent of the mediators indicated that they consult an attorney prior to juvenile dependency mediation "always," or "almost always." Twenty-five percent of the mediators, however, indicated that they "never or almost never" consult an attorney prior to a juvenile dependency mediation. Figure 6 on page 15 summarizes the responses mediators provided when asked to indicate the frequency with which they engage in specific behaviors in mediations.

Figure 6: Frequency of Mediator Behaviors (Self-Report)



Data from the mediator survey reveal that mediator self-reported behaviors vary somewhat by mediator and by the mediation session. The majority of mediators self-report using reflections, open questions, eliciting participant solutions, and summarizing solutions in their mediations. Other practices vary considerably. These data were collected based on a study of mediator behaviors and their relationship to case outcomes (see Charkoudian, Walter & Eisenberg, 2018). While the original study conducted observations of actual mediations, this study only asked mediators for their behaviors. Charkoudian et al., (2018) found that reflective behaviors (e.g., reflections, mediator opinions, common ground) were not sufficient to induce positive outcomes in mediations. Instead, eliciting participant solutions (which includes a combination of eliciting solutions, open questions, summarizing solutions, and legal assessment) were most likely to result in positive outcomes for mediation participants. The Charkoudian et al. (2018) study indicates that mediators need to have an active role in the mediation in questioning the participants in order to achieve positive outcomes.

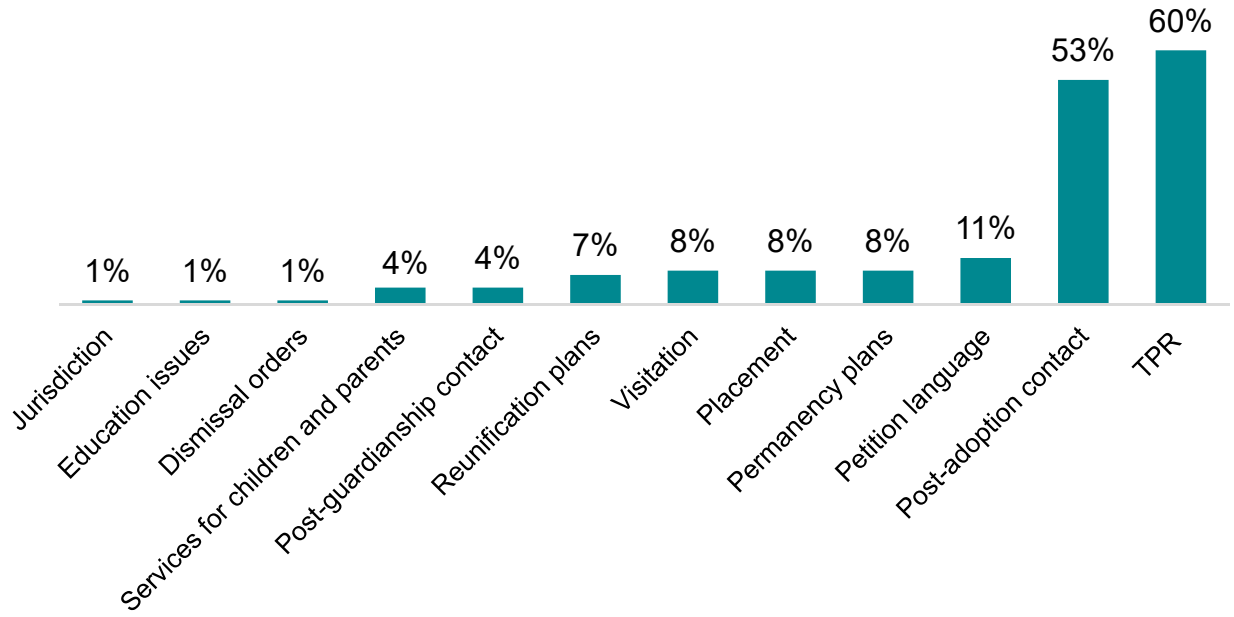
Overview of the Findings Section

The findings section is organized first by general information about mediations and then by the outcomes of interest. Narrative will describe how the outcome is being defined/operationalized, the source for the data (e.g., case file review, survey, etc.) and will provide an explanation of the findings by the outcomes of interest.

Findings

Mediations: Number and Focus. From the Case Data Sheets, which were collected by mediators in every jurisdiction, 427 mediations occurred between July of 2016 and May of 2019 when the data were collected. Figure 7 illustrates the focus of those mediations, based on the data provided on the Case Data Sheets. It is important to note that percentages in the figure will not add up to 100% as a mediation can have multiple focuses.

Figure 7: Focus of Mediation (as per Case Data Sheets; n=427)



The focus of the mediation also varied significantly by judicial district. Table 3 (on page 17) illustrates the focus of the mediation, broken down by the most commonly identified mediation focus (from Figure 7). Sample sizes (n's) are provided in the first column for reference as some sites had very few mediations and percentages should be interpreted in light of this.

Table 3. Breakdown of Mediation Focus by Jurisdiction							
Judicial District	Petition Language	Visitation	Placement	Permanency Plans	TPR	Post-Adoption Contact	Other
1 (n=28)	36%	--	--	4%	21%	57%	8%
2 (n=87)	18%	1%	2%	5%	58%	56%	6%
3 (n=5)	--	--	20%	--	60%	60%	--
4 (n=9)	22%	--	--	22%	56%	44%	--
5 (n=10)	30%	10%	40%	--	10%	10%	80%
6 (n=2)	--	--	--	50%	--	--	50%
7 (n=1)	--	--	--	--	100%	--	--
8 (n=254)	5%	13%	10%	5%	70%	56%	14%
9 (n=5)	20%	20%	20%	20%	20%	20%	20%
10 (n=22)	--	--	5%	55%	46%	36%	24%
11 (n=4)	--	--	--	25%	25%	25%	--

In interpreting Table 3, it is important to note the following: In the 5th judicial district, there were only 10 mediations, so every 1 mediated topic is 10% of the total. That is 80% of other means 8 topics, some of which co-occurred at the same mediation. The "other" column for the 5th judicial district is also high (80%) because mediations could have multiple areas of focus. "Other focus" areas for the 5th included services for child and parents (3), education issues (2), dismissal (1), post-guardianship contact (1), and reunification plans (1). For judicial district 6, the 50% (n=1) "other focus" was reunification plans. For the 10th, the "other focus" included reunification plans (14%, n=3), services for the parents or child (5%, n=1) and post guardianship contact (5%, n=1).

Mediations: Agreement Rate. Of the 427 mediations reviewed, 10% were not held because parents did not show up. Cancelled mediations were not reflected in the Case Data Sheets but were tracked by the Court Improvement Program. In addition to the 427 mediations that had a data sheet, an additional 36 were scheduled but cancelled prior to the date they were held. Mediation agreement rate was calculated for only the cases where at least one of the parties showed up to the mediation (otherwise mediation was not held). For the cases that held a mediation, 74% resulted in an agreement of some sort (60% full agreement and 14% partial agreement) and the remaining 26% did not result in agreement.

Parent/Mediation Participant Voice

Voice can be defined in many ways. For this study, the perception of voice was defined using a procedural justice framework. Procedural justice refers to the fairness and transparency of the processes by which decisions are made when there is a dispute (e.g., Lind and Tyler, 1988). Research has demonstrated that certain features of dispute resolution procedures increase participants' perceptions of procedural justice, including feeling that one has a voice in the process, feeling part of the decision-making, feeling like others listened, being treated with respect, and being treated fairly (e.g., Lind and Tyler, 1988; Tyler, 2005). Sense of voice in the process was measured using post-mediation surveys (secondary data review). The

surveys asked for mediation participants to indicate their level of agreement on several items, which are identified in Table 4 below.

Respondents answered on a four-point scale with options of "No, Strongly Disagree; No, Disagree; Yes, Agree; and Yes, Strongly Agree." Table 4 illustrates the percentage of agreement (either Yes, Agree or Yes, Strongly Agree) for the questions of interest. This is broken down by the mediation participant type. Participant types include mothers, fathers, and "other" participants. "Other" could be family members (n=64), foster parents (n=144), the child (n=12), or other person involved in the case (n=22).

Table 4. Participants Agreement to Mediation Survey Questions

	Mothers (n=150)	Fathers (n=96)	Other Participants (n=242)
Did you have a chance to voice your opinions?	96%	94%	98%
Do you think other people in the mediation really listened to what you had to say?	87%	86%	93%
Did you feel ignored or unimportant during the mediation?	17%	17%	11%
Were you treated with respect?	95%	95%	99%
Were you able to be part of finding answers to the problems discussed?	91%	95%	94%
Did the mediator treat everyone fairly?	100%	98%	99%

Parent Engagement

Increased parent engagement in the court process was another measure that stakeholders felt could be impacted by mediation and would be helpful to assess. Parent engagement in the court process could be measured as parent's attendance at future hearings following the mediation or potentially as parent's compliance with court ordered services. While the case file review portion of the study was designed to track this information, unfortunately it was impossible to explore parent engagement with the given data. This is because the vast majority of cases were mediated at the TPR phase of the case. While the researchers oversampled cases mediated at the petition filing or initial hearing in the case, this process was either too new (and the cases had few hearings after them) or the sample size was just too small to make meaningful comparisons between mediated and non-mediated cases.

Timeliness of Case Processing

Most of the timeliness of case processing variables of interest to this study were easily obtainable through a structured case file review process that examined dates of key events on the case, total number of continuances, timeliness of case processing, and time to permanency. Reduction in contested matters, however, was not easy to ascertain from the

case files, as it was not possible to determine if hearings were contested or uncontested on their issues.

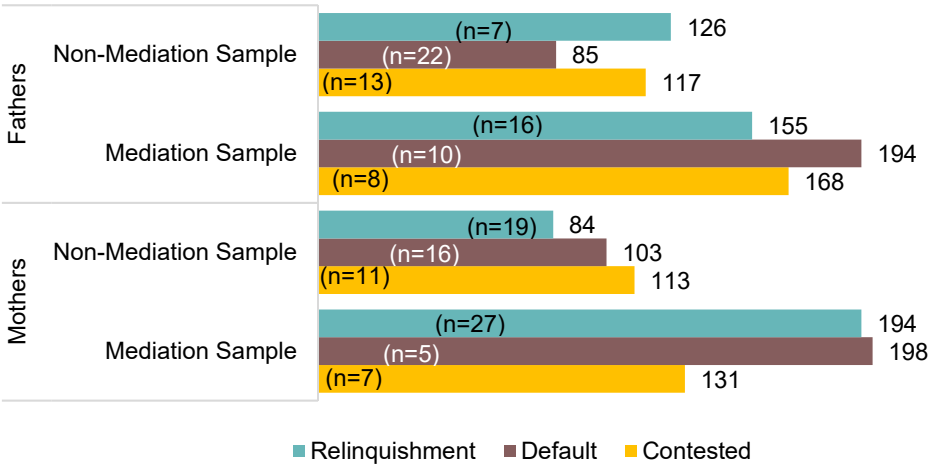
Table 5 illustrates the timeliness of case processing for the 175 cases in the case file review sample. The asterisk (*) in the table illustrates a statistically significant differences between the mediated and non-mediated groups.

Table 5. Timeliness of Case Processing Variables for Mediated and Non-Mediated Cases *indicates significant difference		
Variable	Mediated Cases	Non-Mediated Cases
Number of Continuances	1.9	1.1
Number of Hearings	11	11
Number of Post-TPR Hearings	.9	1.8
Time to TPR Petition Filing (in days)	553	451
Time from TPR Filing to TPR Order (in days)	183*	98*
Time from TPR Order to Adoption (in days)	273*	383*
Time to Permanency (in days)	893	958

As in indicated in Table 5 above, significant differences were found between mediated and non-mediated cases in the time from TPR filing to TPR order and time from TPR order to adoption. Mediated cases took significantly longer from TPR filing to TPR order when compared to non-mediated cases. However, mediated cases took significantly fewer days from TPR order to adoption when compared to non-mediated cases.[1] The data were further explored to examine the significant difference in time between TPR filing and TPR order between mediated and non-mediated cases. Specifically, the type of termination was compared (e.g., contested trial, default, or voluntary relinquishment). Figure 8 illustrates the differences in time for cases referred to mediation versus those that were not when the TPRs were contested, default, or relinquishment. Only two of the items were significantly different. For mothers, the time to relinquishment was significantly shorter for non-mediated cases. For fathers, the time to default was significantly shorter for non-mediated cases. It is important to note that the mediated sample represents the cases where a mediation occurred. It does not mean that both the mother and father went to mediation on the case or that mediation was successful. There was not always documentation in the files to indicate who attended the mediation. Figure 8 displays the cases where a mediation occurred compared to those that a mediation did not occur, and this cannot be broken down by individual parents who attended the mediation, because that data was not available. The number of cases for each variable is present in the graph and represented by (n =).

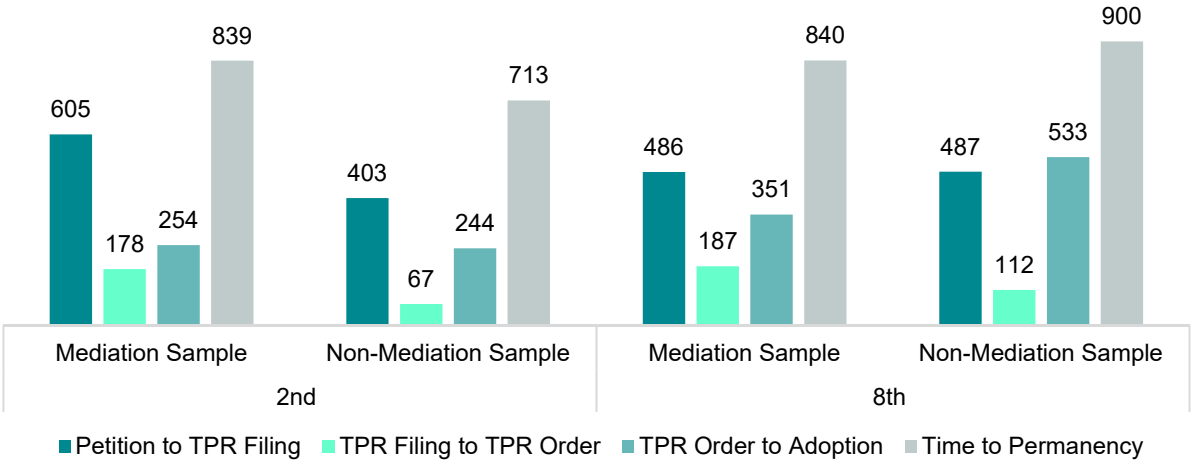
[1] Although there was a difference of 100 days between mediated and non-mediated cases in the time to file the TPR petition this difference was not significant due to the considerable variation in cases.

Figure 8: Time (in Days) From TPR Filing to TPR Order



One additional comparison was made between cases in the 2nd and the 8th judicial districts as their processes are a little different for TPR cases. Figure 9 illustrates the average time (in days) between events only for cases that resulted in termination of parental rights. Patterns of timeliness were similar except for two variables. Time to permanency was shorter in non-mediated cases in the 2nd judicial district as compared to the 8th judicial district where time to permanency was slightly longer for non-mediated cases. In addition, the time from TPR order to adoption was different between sites. In the 2nd, time from TPR order to adoption was similar between mediated and non-mediated cases. In contrast, time from TPR order to adoption was significantly longer in non-mediated cases in the 8th.

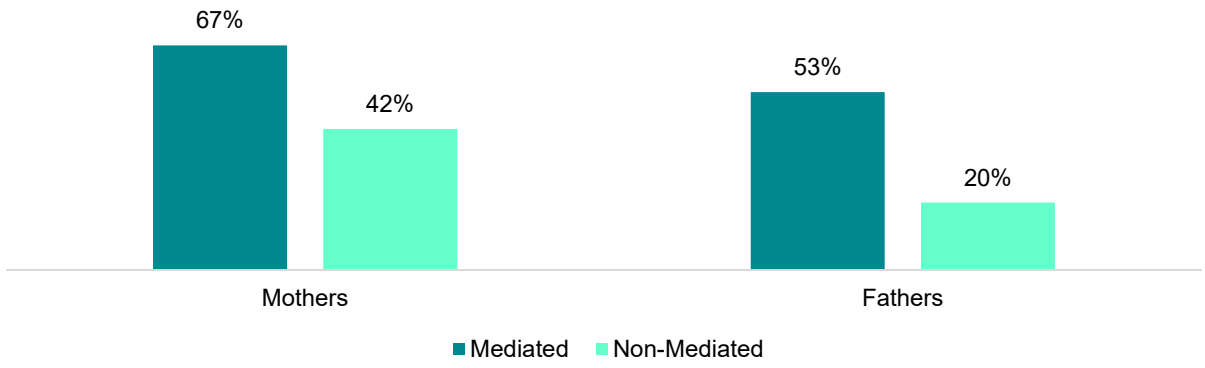
Figure 9: Average Time (in Days) to Events in TPR Cases by Judicial District



Increased Likelihood of Voluntary Relinquishment at TPR

Participants responding to the needs assessment survey also felt that mediation would result in an increased likelihood of voluntary relinquishment at the TPR stage of the case. Because cases are not randomly assigned to mediation, it is a challenge to determine whether they have a higher likelihood of relinquishing if they go to mediation or if the cases that are referred to mediation are referred because they are more likely to relinquish. However, the data clearly showed a statistically significant difference in mediated and non-mediated cases in the rates of voluntary relinquishment. Of the 102 cases that resulted in termination of parental rights for all cases in the sample, mediated cases were much more likely to end with a voluntary relinquishment. Figure 10 (on page 21) illustrates the percentage of cases that resulted in voluntary relinquishment of cases for both mothers and fathers.

Figure 10: Percentage of Cases that Resulted in Voluntary Relinquishment (n=102)



Post-Adoption Contact

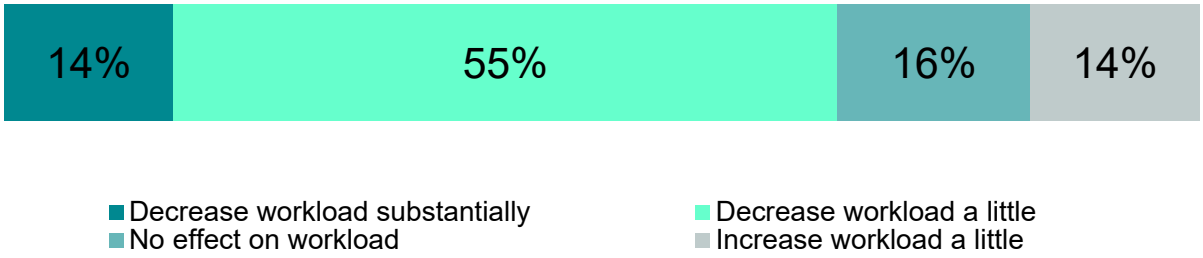
Post-adoption contact was measured by examining the adoption record to determine whether any agreement was placed on the record allowing post-adoption contact between the biological parents and the adopted parents. Data were also collected on the nature of that contact. For 70% of the mediated cases, there was some sort of post-adoption contact for a biological parent, compared to only 10% of non-mediated cases. This was a statistically significant difference. Post-adoption contact could range from the adoptive parents sending updates and photos to allowing parents an opportunity to visit (either via phone or in person) with their child. In mediated cases, 54% of the post-adoption contact orders for mothers and 43% of the post-adoption contact orders for fathers referenced some opportunity to visit with the child. This can be contrasted to 7% (for mothers) and 0% (for fathers) of post-adoption contact orders when the case was not mediated.

Cost Effectiveness

Questions about the effectiveness of the mediation program include whether the program is cost effective. Cost analyses are complex and can include more than just the financial savings of a program. With the current mediation process, the majority of cases are being mediated at the termination of parental rights phase of the case. That means, cost savings that could be associated with mediation (from earlier studies) such as timelier achievement of reunification, reunification itself, or decreased re-entry into foster care could not be calculated for this study. However, some cost effectiveness information could be collected. Cost data were collected in two ways. Participants were asked to self-report on the costs of mediated versus non-mediated cases in terms of their prep time and their time in court (or in mediation). Also, a cost "savings" calculation was created based on some crude estimates of the costs associated with court. It should be noted that these estimates are only estimates – the actual costs of running court, including space, personnel, etc., was not determined as part of the study.

One assessment of cost is the workload of the professionals involved in the system. Stakeholders were asked their perception of how mediation affects their workload. Figure 11 illustrates their responses. The majority felt that mediation decreased their workload a little (55%) or decreased it substantially (14%) or had no effect on their workload (16%). Only 14% felt that their workload increased as a result of mediation.

Figure 11: Perception of Workload Impact by Stakeholders (n=42)



Another potential way to assess cost is to examine the time it takes stakeholders to prepare for and attend both court hearings and mediations. Using data from the Case Data Sheet and the Cost Study Survey, researchers were able to estimate prep time and time spent in events. Stakeholders indicated that their preparation time for mediations is similar to the time they would prep for a court hearing on the same issue. However, time in mediations versus court hearings varied. Actual mediation times were pulled from the Case Data Sheet. Mediations averaged approximately 2 hours. Specifically, a mediated TPR averaged 1.85 hours. In contrast, a contested TPR trial averaged 8 hours (based on stakeholder reports). A mediated petition allegation case averaged 1.7 hours compared to an estimated 2.75 hours for a contested adjudication trial. As such, there is a significant time savings for professional

stakeholders if the case resolves in mediation (as nearly three quarters of cases do). This is particularly true for court time and the judge's time as there would be no hearing if the mediation is successful in these two instances.

This study also indicates another potential cost savings of mediation. Looking just at TPR cases, which are over half of the mediations that occur, consider the cost savings of court time alone for the last three years. Since the inception of the mediation program, there have been 256 mediations which focused on the termination of parental rights. Of these mediations, 123 have resulted in the court vacating the next hearing (TPR trial). Participants estimated TPR trials to average 1.1 days of court time. A full day of court is estimated to cost approximately $3,600 based on judicial estimates of what court costs (this may be a low estimate and is based on self-report perception data). That is a cost savings of $442,800 in the last three years, just for TPRs.

Another potential, non-financial benefit, is the parent's engagement in the process. Survey results indicate that parents are satisfied with their mediation and feel they have had a voice in the process. Procedural justice literature would indicate that these perceptions of fairness, respect, and voice could lead to parents being more engaged in the court and child welfare process, more likely to comply with the law, and less likely to have future interactions with the system (e.g., Lind and Tyler, 1988; Tyler, 2005). However, the data to confirm this important benefit of mediation could not be collected at this time.

Another potential benefit may be that the parent has post-adoption contact with the child. This is a complex question, as it relates to understanding whether contact with biological parents is healthy and beneficial to the adopted child. However, from a parent's perspective, this would definitely be a benefit that they reap from the system.

The cost information and findings presented above should be interpreted with caution. The data collected from stakeholders varied significantly in terms of "actual" costs associated with their time, and as a result, could not be used in a structured way for analysis. Instead, more qualitative information about general perceptions of decreases in workload, paired with average time estimates yielded the best data. These are not the only way to measure cost and not even the best way to assess this complex issue. However, the data do seem to indicate that there is a *court* cost savings when cases are successful in mediation.

Discussion

Previous evaluations of Nevada's Juvenile Dependency Mediation Program have shown, consistent with other research from around the country, that mediation of dependency cases can successfully enhance overall 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) satisfaction with and engagement in the case process, and improve juvenile dependency case outcomes (i.e., reunification, timelines of permanency) in a non-adversarial manner (e.g., Summers et al., 2013). Furthermore, a recent process evaluation of Nevada's statewide Juvenile Dependency Mediation Program confirmed that a majority of dependency cases are able to reach agreement through mediation and that mediations resulted in significantly more vacated hearings when compared to non-mediated cases (Ganasarajah, et al., 2017).

The current evaluation of Nevada's statewide Juvenile Dependency Mediation Program contributes to the body of evidence for the success of the program and was undertaken to support ongoing efforts to improve the program's implementation and outcomes. Some limitations of the current evaluation of Nevada's statewide juvenile dependency mediation program should be noted. First, the study focused almost primarily on cases that were mediated at the TPR stage of case processing due to the insufficient number of cases in each judicial district that mediate cases at earlier stages of the case. As a result, the evaluation is limited in what can be said about the impacts of mediation at other points in the case (e.g., pre-adjudication/adjudication or disposition) and on other non-TPR related issues (e.g., petition allegations and case plan services). It also limits what can be said about mediation impacts on important case outcomes such as the likelihood of reunification, as well as the effects of parental engagement in mediation, on parent's attendance in subsequent court hearings and on parents' case plan compliance and compliance with court orders. Second, while case file review instruments were carefully designed to capture information of interest to the evaluation (e.g., whether matters were contested or not, whether hearings post-mediation referenced the mediation and if so how, and the number of placement moves in a case), this information turned out to be only sporadically available from court orders and other supporting documents in the court case file. It was difficult, from the court's case files, for instance to obtain much in the way of detailed information about the mediation and what information was contained in the files was inconsistently reported from judicial district to judicial district.

Despite these limitations, however, the current evaluation adds to the body of evidence supporting the success of Nevada's statewide juvenile dependency mediation program in a number of important ways. Looking at specific program goals, the current study found:

Goal: To create a settlement process that is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model. The study found:

- Mediation provides an opportunity for non-professional stakeholder participants to feel they have a voice in the court process (e.g., 96% of mothers, 94% of fathers, and 98% of other participants[2]). The majority of professional stakeholders also report that

[2] Other" could be family members, foster parents, the child, or other person involved in the case.

mediation provided them with an opportunity for voice in the court process (e.g., 94% of CASA, 97% of children's attorneys, 97% of DAs, 99% of mother's attorneys, 93% of father's attorneys and 99% of social workers).

- Non-professional stakeholders report being treated fairly in the mediation (e.g., 100% of mothers, 98% of fathers, and 99% of other participants), as did professional stakeholders (e.g., 100% of CASA, 99% of children's attorneys, 99% of DAs, 96% of mother's attorneys, 97% of father's attorneys and 99% of social workers).
- Non-professional stakeholders (e.g., 95% of mothers, 95% of fathers, and 99% of other participants) and professional stakeholders (e.g., 100% of CASA, 98% of children's attorneys, 99% of DAs, 99% of mother's attorneys, 95% of father's attorneys and 99% of social workers) report being treated with respect in mediations.
- The majority of non-professional stakeholder participants in mediations report that they are really listened to (e.g., 87% of mothers, 86% of fathers, and 93% of other participants), as did the majority of professional stakeholders (e.g., 97% of CASA, 93% of children's attorneys, 98% of DAs, 94% of mother's attorneys, 91% of father's attorneys and 84% of social workers).

Goal: To reduce litigation. The study found:

- A high agreement rate with 74% of mediations resulting in an agreement of some sort (60% full agreement and 14% partial agreement).

Goal: To increase resolution of dependency case issues. The study found:

- Mediated TPR cases were significantly more likely to end with a voluntary relinquishment (67% for mothers and 53% for fathers) when compared to non-mediated cases (42% for mothers and 20% for fathers).
- Mediated cases had significantly more post-adoption contact (70%) when compared to non-mediated cases (10%).
- In mediated cases, 54% of the post-adoption contact orders for mothers and 43% of the post-adoption contact orders for fathers referenced some opportunity to visit with the child, compared with only 7% (for mothers) and 0% (for fathers) of post-adoption contact orders when the case was not mediated.

Goal: To improve a child's time to permanency. The study found:

- Mediated cases took significantly longer from TPR filing to TPR order (183 compared to 98 days for non-mediated cases.
- Mediated cases took significantly less time from TPR order to adoption (273 days) when compared to non-mediated cases (383 days).
- There was no significant difference found for time to permanency for mediated (893 days) compared to non-mediated (958 days) cases..

This study also conducted a preliminary cost-benefit analysis of the statewide juvenile

dependency mediation program and found:

- The majority of stakeholders believe mediation reduces their workload (69%), and significant time savings were found for professional stakeholders in terms of time spent in mediation vs. time spent in contested trials.
- Looking only at TPR cases, in the last three years 123 mediations have resulted in the court vacating the next hearing (TPR trial) following the mediation. Based on court estimates of the cost of court time, this represents a cost savings of $442,800 in the last three years just for TPR cases alone.

Goals not addressed in the study included:

- While the study did find increased post-adoption contact with biological parents in mediated cases (which can be considered a permanency-related outcome), the study did not address improved permanency outcomes for children except in the 8th JD in terms of time.
- Decrease out of home placement moves for children.
- Allow and promote meaningful participation of children and youth in dependency case process.

Recommendations

Improvements to the Juvenile Dependency Mediation Program

The needs assessment conducted as part of this evaluation suggests a number of areas where program improvements may be needed. Stakeholders were asked, for example, how cases in their judicial district were referred to mediation and their responses indicate confusion or lack of understanding. Responses within judicial districts and across stakeholder groups varied widely, with some respondents believing cases were referred by the court, others by the agency, and still others believing referrals to mediation were made on the recommendation of all parties. This variability in response indicates a need to reinforce for stakeholders that there are multiple ways into the mediation program. Stakeholders were also asked for suggestions about how the referral process might be improved. Their responses included setting the date and time for the mediation in open court with all parties present; having an established and more formalized process for mediation referral; allowing self-referral or CASA referral to mediation; expanding the use of mediation prior to court involvement; and increasing buy-in from all stakeholders for the use of mediation.

Mediators were asked what could be done to improve the mediation program. Suggestions included having more support from stakeholders (e.g., ensuring attorneys spend the time to counsel their clients about mediation). One mediator suggested more meetings with stakeholders to build buy-in for juvenile dependency mediation would be beneficial. Another mediator suggested a need for clearer assignments from the court with greater thought put into who is assigned to mediate and when. Mediators also recommended more training for

mediators. Suggested topics for additional training included: juvenile cases broadly, psychology of disrupted family systems and adoptions, and ongoing domestic violence training. One mediator suggested it might be beneficial to be able to contact other mediators to discuss different situations that arise in mediation and to brainstorm effective mediation approaches when faced with those situations.

Recommendations:

- Continue to work with sites to enhance and formalize referral process.
- Increase mediator training opportunities for specific topics relevant to child welfare cases.

Mediation Quality Assessment

Some of the comments made by stakeholders in the needs assessment survey suggest areas where mediators' practice might be improved and stakeholder understanding of mediation's facilitative rather than directive model could be enhanced. One stakeholder noted, for example, that although mediators are supposed to be neutral third parties, some are "too passive" in the mediation. Another stakeholder noted that mediators allow some of the participants in the process to be "disruptive" and "disrespectful" (e.g., allowing "attorneys to talk down to everyone in attendance"). Although mediation participants should develop agendas for mediation, others reported that mediations often "lack agendas," and mediators are not able to "reign in people when they get off topic" or "ramble on." Suggestions were made that mediations should start off with an explicit "goal" statement (e.g., "purpose for the day") so that mediations "can stay on track better."

Stakeholder feedback about mediators and the mediation process such as those noted above suggest that a more robust assessment of mediator and mediation quality than has been attempted before may be timely. A mediator quality assessment would be particularly helpful to program administrators, mediator training, and further program improvement. If the mediation program considers expansion to mediate more issues and stages in dependency cases (see recommendations regarding encouraging mediation at earlier stages of the case below), a mediator quality assessment can also be used to identify current gaps in mediator skills, knowledge or practice, so that strategies to address those gaps can be put in place if an expansion of the program occurs.

This evaluation provides some insight into mediator quality assessment instrumentation that can be used in future evaluations of mediator/mediation quality. As part of the current evaluation, researchers surveyed mediators about their mediation practice framework and behaviors and tested a mediation quality observation instrument. This was done with the goal of laying the groundwork for a possible future study of the quality of the mediation program by providing feedback to Nevada Court Improvement Program about the value and feasibility of different quality assessment methods. Specifically, researchers adapted an existing protocol for assessing mediation quality used in other studies (Charkoudian, Walter, & Eisenberg, 2018). Questions were added about mediator behavior to this evaluation's survey

of mediators and an observation protocol was pre-tested on a small, convenience sample of juvenile dependency mediations observed in two Nevada judicial districts.[3] The survey instrument was designed to capture mediators' self-reflections on their behaviors and practice framework (see findings presented from this survey on page 14-15). The observation instrument was designed to measure the presence or absence of mediator behaviors (e.g., attempts to change attitudes, summarizing, supporting, reflecting, establishing common ground, solution generation, etc.) and behaviors of other participants in the mediation (e.g., interrupting, taking responsibility/apologizing, "put downs," expression of needs/wants, acceptance, rejection, process complaint, etc.). Responses obtained from the survey and information obtained from pre-testing of the observation instrument, even in the small convenience sample of mediations observed, found both instruments to be promising tools for future juvenile dependency mediation/mediator quality assessment studies should those be undertaken. A copy of the observation instrument is included in Appendix A.

Recommendations:

- Consider opportunities to evaluate specific mediation behaviors and their relationship to case agreement and outcomes.
- Expand feedback loops to provide feedback to all of the mediators about their current practice and areas for improvement.

Improvements to Data Collection Procedures

With respect to data collection procedures, the program should consider more training for mediators on completing the Case Data Sheet as well as developing a written protocol on how to correctly fill out the data sheet. If there was a mediation "no show," mediators often inaccurately entered "no agreement reached" on the Case Data Sheet. This is misleading and not an accurate reflection of what occurred during the mediation. "No agreement reached" implies that there was a discussion had at the mediation and parties were unable to reach an agreement in the case. If one parent showed up for the mediation and reached an agreement, but another parent was a "no show," that information should be clearly distinguished or differentiated in the Case Data Sheet. Consistency in how "no show's" and agreements by individual parties are coded by mediators is important. Improvements to mediators' data collection in this regard will increase both the accuracy of information recorded as well as its value in understanding the mediation context, process and outcomes. A proposed revision to the Case Data Sheet to address this concern is included in Appendix B.

The excel spreadsheet currently maintained to track and monitor mediation cases should also undergo a review. The spreadsheet, as currently configured, is an excellent resource for determining program implementation fidelity and monitoring mediation cases for continuous quality improvement purposes. However, each of the items that are tracked in the spreadsheet should be reviewed to determine if there are additional process and outcome measures that could be added to data collection procedures, entered into the spreadsheet,

[3] When possible, researchers observed mediations while on-site conducting case file reviews.

and subsequently tracked (e.g., additional agreement data). This review process would enhance the spreadsheet's efficacy as a fidelity assessment and CQI tool, as well as enhance the program's data capacity for process and outcome measurement.

Thanks to concerted evaluation efforts over the years and a dedication to continuous quality improvement, much is now known about the experience of mediation participants in Nevada's Juvenile Dependency Mediation Program. Past evaluations of juvenile dependency mediation in Nevada, for example, have analyzed mediation exit surveys of participants and found consistently high levels of satisfaction with the process, opportunity for voice and involvement in decision-making, among other positive mediation feedback. Given consistent positive findings from these past evaluations, and given that participants continue to be asked to complete mediation exit forms at the conclusion of every mediation session (which can be burdensome), program administrators should give some thought to whether exit surveys should be continued as a routine part of the program. Do exit surveys produce any new information that can be used in ongoing efforts to improve the mediation program? If not, program administrators should consider whether routine use of exit surveys should be suspended. If the exit survey process is a grant requirement or still considered valuable however, perhaps the exit survey content should be modified to consider targeting only those areas that remain less understood in terms of participants' experience with mediation and impact on agreement, case processing or outcomes (e.g., impact on case plan compliance). This would make the feedback received from surveys valuable to continuous quality improvement while also reducing the burden on participants. If a mediation quality assessment is undertaken, exit surveys of participants would also continue to be informative if they are tailored to provide feedback on mediator behaviors and process. It is strongly suggested that any future use of exit surveys of participants ensure participants do not have to hand in their completed surveys directly to mediators, as this may inhibit or otherwise influence responses. Instead, envelopes should be provided along with the survey instrument, and participants instructed to insert their completed surveys into the envelopes, seal them, and then place them in a container provided at the mediation before leaving. Draft revised stakeholder and participant exit surveys designed to focus on mediator and mediation quality assessment are included in Appendix C.

Recommendations:

- Consider additional training or an opportunity for all mediators to come together to discuss how to enter information on the case data sheet to ensure consistent responses.
- Consider revising the parent/participant survey (suggested changes are provided in Appendix B).
- Consider discontinuing and/or modifying the use of the stakeholder survey. The data has been consistent for three years and is not providing additional value at this time compared to the burden on stakeholders.

Mediation and Termination of Parental Rights Cases

The evaluation found a significant difference in the time (in days) it takes from TPR order to adoption, with mediated cases taking significantly fewer days from TPR order to adoption when compared to non-mediated cases. The evaluation also found that the time from TPR filing to TPR order took significantly longer in mediation cases when compared to non-mediated cases. These differences in TPR case processing timeframes could not be attributed to differences in case complexities alone (e.g., number of allegations or presenting problems in the case) and could not be explained by any other data collected as part of this evaluation. Program administrators should reflect on these findings to identify any theories they might have regarding why these differences in TPR case processing exist between mediated and non-mediated cases– especially as one of the primary goals of the mediation program is to improve case processing timeliness. The theories generated for why there is a difference could then be operationalized and tested in future evaluations of TPR mediation's impact on case processing timeliness.

Recommendations:

- Dig deeper into the case information to identify why mediated cases are not faster to achieve permanency in TPR cases.
- Consider holding a focus group of study participants (CICs) to identify their theories around why mediated cases take longer at some points, and do not result in timelier permanency.

Expand/Encourage the use of Juvenile Dependency Mediation at Earlier Stages of the Case Process

Termination of parental rights proceedings are among the most important of all juvenile court functions. Legal termination of parental rights has profound, long-lasting implications for both parents and children. Unless otherwise negotiated, the termination of parental rights causes both parents and extended family members to lose their legal rights to custody, visitation and even communication with the child at issue. Offering mediation in TPR cases as a tool to facilitate resolution and post-adoption contact between parents and their children, is a strength of Nevada's Juvenile Dependency Mediation Program and should continue. However, while juvenile dependency mediation may be used at other points in the case, in practice it is used primarily at the TPR stage in Nevada's judicial districts and much less frequently at other stages of the case. This represents a missed opportunity to apply the benefits associated with dependency mediation generally found by this study, and by past research (e.g., settlement, opportunity for voice and participant involvement in decision-making) to other juvenile dependency issues and stages of the case and positively impact all case processing timelines and outcomes.

Timely permanency for children and families involved in the dependency system is best achieved when proactive and frequent early steps are taken to address the needs of

children and their families (Edwards, 2005; Gatowski et al., 2016). The "front-end" of a dependency case from the initial shelter care hearing to the completion of adjudication and disposition are crucial to timely case processing and delays at these stages only compound delay at later stages of the case. In fact, research has found that early, and intensive attention to the "front-end" of the case (i.e., the concept of "front-loading") results in better outcomes for children and families such as improved case processing timeliness and improved permanency (e.g., Center for Public Policy, 1998; Gatowski et al., 2001; Olson, 2003; Thoennes, 1997).

Despite the fact that the Juvenile Dependency Mediation Program is set up to mediate cases from their inception, mediation is not often used at the early stages of the case in Nevada. As a result, mediation, as a tool to "front-load" the case process is being underutilized. Mediation can be particularly effective at helping resolve issues at early stages of the case when there is information that has not yet been exchanged among the parties, the parties have not become entrenched in adversarial positions, and there is a sense of urgency to work with the family so children can be safely returned home. Moreover, this study and past evaluations of Nevada's Juvenile Dependency Mediation Program, found that mediation provides participants with an opportunity for voice and engagement in the court process. Providing that opportunity as early as possible in the case process, via mediation, may have compounding positive impacts on all later stages of the case. In fact, the positive impact of mediation at the "front-end" of cases on case outcomes was demonstrated in an earlier outcome-focused study of juvenile dependency mediation in the 2nd Judicial District (Summers et al., 2013). That study focused solely on cases that were mediated at the adjudication or disposition stage of the case, as opposed to the TPR stage, and found that mediated cases resulted in more reunifications compared to non-mediated cases and that fathers were more engaged in the case process.

Given the value of mediation as a tool to "front-load" the case process, program administrators should consider why it is not used more frequently at earlier stages of the case. What are the barriers to expanding its use beyond TPR cases? Is it due to a lack of buy-in or is it a program resource issue? And, once those barriers are identified, what are the solutions to address those barriers? Perhaps more training and education about the value of mediation at the petition allegation, adjudication and disposition stages of the case should be undertaken with all court stakeholders to obtain buy-in, for example.

Recommendations:

- Continue prioritizing the use of mediation for earlier points in the case process, such as the adjudication phase and disposition or case planning.

Expanded Outcome Measurement

While this evaluation was able to produce data on many relevant outcomes for juvenile dependency mediation such as agreement rates, participants' perception of voice and

involvement in decision-making, timeliness of case processing, rates of voluntary relinquishment, and degree of post-adoption contact, other outcome measures proved difficult to confidently ascertain. Future evaluations should examine the Juvenile Dependency Mediation Program's impact on case, stakeholder and family-related outcomes that were not able to be studied in the current evaluation (given available data sources and current study scope), but were identified as highly relevant by system stakeholders in the needs assessment (see Figures 3-5 of this report).

Reduction in the number of contested matters in a case as a relevant outcome for mediation, for example, was not easy to obtain from the case file review as it was not always possible to determine if hearings were contested or not on their issues. While this information can be obtained more subjectively by asking for stakeholder estimates about mediation's impact on contested matters (e.g., via survey or interview methods), improved record keeping by the mediation program and the court about whether or not specific issues are contested would facilitate a more rigorous analysis of mediation's impact on reduction of contested matters.

With respect to case-related outcomes, whether juvenile dependency mediation increases the likelihood of reunification was also not able to be ascertained by this evaluation. Although identified by 71% of respondents as an important case-related outcome measure for mediation, reunification rates were not able to be studied in the current evaluation due to the lack of non-TPR stage mediated cases included in the study samples. To study mediation impacts on reunification rates, a larger sample of cases using mediation before the TPR stage of the case would need to be collected, analyzed, and compared to a non-mediation sample of similar cases in order for those analyses to be meaningful. Furthermore, if the program expands to use mediation more frequently at earlier stages of the case process rather than primarily at TPR, future evaluations will be better able to determine if mediation is associated with a higher likelihood of reunification or other permanency outcomes.

While child and family-related outcomes of mediation identified as relevant by stakeholders are currently captured by the program's participant exit surveys (e.g., whether families felt part of the decision-making process, had a voice in the mediation, etc.), increased parent engagement in the court process was another measure that stakeholders believed to be a relevant outcome of mediation that proved difficult to assess. Specifically, the current evaluation was not able to examine the potential influence of parents' participation in mediation on subsequent court hearings or on their compliance with court-ordered services or case plans. Again, this was largely due to the vast majority of cases being mediated at the TPR stage of the case, creating too small a sample to make meaningful comparisons between mediated and non-mediated cases on parental engagement and case plan compliance outcomes. As with examining the likelihood of reunification, expanding the use of mediation to earlier stages of the case process will enable future evaluations to include a robust examination of the effects of parental engagement in court hearings and case outcomes.

Although preliminary, the current study included a mediation cost-benefit analysis component. Program administrators might consider whether additional efforts to determine the cost

benefits associated with mediation would be valuable. By way of follow-up to the current study, for example, stakeholders can be encouraged to provide more detail about the actual costs associated with time spent in preparing for, and participating in, mediation vs. court hearings (rather than the rudimentary estimates they provided in the preliminary study conducted herein). Surveys can also be enhanced by providing specific examples of the level of information required of stakeholders in order to make accurate estimates of their time and costs (e.g., illustrating, via working through an example, the calculation of time per events based on salary, billable hours information or fee structures). Interview methods may also be used to supplement surveys as time and cost estimates may be better probed in-person and result in detailed information required for more accurate estimates. With permission, findings from surveys and interviews could also be supplemented with any available internal documentation from stakeholders' offices/organizations about billing, costs and expenses related to mediation and court practice.

Recommendations:

- Consider ideas for future data collection efforts to support understanding of effectiveness on goals that cannot be measured at this time.

In Summary

This evaluation's findings and past evaluations of the statewide juvenile dependency mediation program, demonstrates that Nevada's Juvenile Dependency Mediation Program continues to have positive impacts on case processing and some outcomes for children and families. The program provides an effective forum for timely agreement and resolution of issues, as well as an important opportunity for participants to have a voice in the case process and become more fully engaged in their case. While this study did identify some positive outcomes of mediation, it is important to note that the study was unable to assess all of the goals of the statewide Juvenile Dependency Mediation Program, in large part due to the overwhelming majority of the cases being focused on TPR and post-adoption contact. That makes outcomes such as encouraging youth participation or focus on placement moves inappropriate to measure as they are not a focus (or intended outcome) of a TPR mediation.

Nevada's commitment to ongoing evaluation of the Juvenile Dependency Mediation Program and use of those evaluation findings for continuous quality improvement is commendable. Table 6 (pg. 34) illustrates Nevada's rich history of mediation evaluation projects, with various studies and findings over the past 6 years. Studies are numbered in the table with footnotes to full citations. It is our hope that the additional recommendations for improvement generated by the current evaluation findings, and outlined in this report, will be valuable to program administrators – to build on what is already a successful program to: further enhance its implementation (through programmatic improvements); further enhance continued evaluation efforts (through improved data collection and expanded outcome measurement); and further enhance the program's ability to positively

impact timely permanency for children and families by exploring ways to encourage the use of mediation at earlier stages of the case process.

Table 6. Summary of Positive, Negative and Neutral Findings for NV Mediation Studies

Nevada Mediation Studies	1[4]	2[5]	3[6]	4[7]	5[8]	6[9]
Study Focus	Outcome	Process	Process	Process	Outcome	Outcome
Study Year	2013	2013	2013	2017	2017	2019
Study Site	2nd	2nd	8th	Statewide	2nd	Statewide
Goal: Create a settlement process which is inclusive, collaborative, confidential, and is conducted with fidelity to a mediation model	N/A	✓	✓	✓	✓	✓
Goal: Reduce litigation	N/A	✓	N/A	✓	✓	✓
Goal: Improve a child's time to permanency	—	✗	N/A	N/A	—	—
Goal: Increase resolution of dependency cases issues	N/A	✓	N/A	✓		✓
Goal: Improve permanency outcomes for children	✓	N/A	N/A	N/A	✓	N/A
Goal: Decrease out of home placement moves for children	N/A	N/A	N/A	N/A	N/A	N/A
Goal: Allow and promote meaningful participation of children and youth in dependency case process.	N/A	N/A	N/A	N/A	N/A	N/A
Engagement/voice of participants	✓	✓	✓	✓	N/A	✓
Workload	N/A	N/A	✓	N/A	N/A	✓

✓ = positive finding, ✗ = negative finding, — = no finding, N/A = not assessed

[4] Summers, A., Wood, S., Bohannan, T., Gonzalez, G., & Sicafuse, L. (2013). *Research Report: Outcome Evaluation of Mediation in Washoe County, Nevada*. Reno, NV: National Council of Juvenile and Family Court Judges
[5] Macgill, S., Summers, A., Wood, S., & Bohannan, T., (2013). *Research Report: Assessing Mediation in Washoe County, Nevada*. Reno, NV: National Council of Juvenile and Family Court Judges
[6] Summers, A., Wood, S., & Bohannan, T., (2013). *Research Report: Assessing Mediation in Clark County, Nevada*. Reno, NV: National Council of Juvenile and Family Court Judges
[7] Ganasarajah, S., Siegel, G., Knoche, V., Gatowski, S., and Sickmund, M. (2017). *Process Evaluation of Nevada's Statewide Dependency Mediation Program.* Reno, NV: National Council of Juvenile and Family Court Judges.
[8] 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. Note: this study did find, for cases in which children were reunified with both parents (a small number of cases) time to permanency was shorter in mediated cases.
[9] Gatowski, S., & Summers, A. (2019). *Nevada Statewide Juvenile Dependency Mediation Outcome Evaluation*. Reno, NV: Data Savvy Consulting.

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APPENDIX A: Mediation Observation Protocol
(Adapted from Charkoudian et al., 2018)

Behavior	Definition	Observed Count of Times
Reflections	Any statements which: paraphrases what either participant has said about the main issues in the conflict and repeats it back, with or without checking for accuracy; the mediator repeats back what participants have said, with a questioning tone as if to check to see if they got it correct.	
Emotions	Any statement from the mediator that: addresses participants' feelings; encourages participants to express their own feelings. Any statement in which a mediator reflects a feeling that a participant has indicated but not stated directly. Any statement or question in which a mediator begins with "feel…." and follows with an emotion or quasi-emotion word.	
Interests	A reflection or paraphrasing in which a mediator tries to name the value or goal behind the position a participant articulates. This would include attempting to understand the interest or value that the participant has for their children or someone for whom they are speaking.	
Open questions	Any question which attempts to g et participants to talk about their perspective on the situation, generally open-ended questions. Questions which attempt to get beyond the surface position to an underlying goal or value. Includes hypothetical questions about things occurring differently in the past.	
Fact question	Any question: to which yes/no can be answered; that asks for one specific detail or attempts to establish a piece of information as true; attempt to determine who was or should be responsible for something that occurred in the past.	
Summary of facts	A summary of specific legal or technical facts in the case, which includes at least two facts and quantitative information.	
Mediator Opinion	Any statement in which the mediator: talks about their own personal experiences or previous mediation experiences, as they relate to the situation; expresses their opinion about the mediation process, or the way they would describe the process; provides personal information about themselves or answers a personal question a participant asks of them in a way which provides information; expresses his/her opinion about the situation; brings up a piece of information they got from before the mediation, either from the intake file, the court file, previous conversations with the participants, etc. with an indication that they are bringing it from one of these places; expresses their opinion about a potential solution; expresses his/her opinion about what the group has said with some degree of certainty or conclusion; explains their analysis of the dynamics of the relationship; finishes a sentence for a participant; praises both participants' behavior in mediation.	

Advocate/support	Any statement in which the mediator indicates support for or agreement with one participant's position/ideas; advocates for one participant's position/ideas; praises one participant's behavior in mediation; criticizes one participants' behavior or approach; frames the topic in terms of one participants' view of the situation.	
Behavior Direction	Any statement in which a mediator: sets guidelines or rules for participants to follow during the mediation or tells participants how to act during the mediation; choreographs participants' behavior in a certain way; attempts to tell participants how to behave in response to swearing, cursing, yelling, interrupting, or insults, or breaking any other rules the mediator has established. Used when mediators repeat the participants' names over and over or say "ladies, ladies…" or "gentlemen, gentlemen…" in an attempt to get attention to restore order. Any time a mediator uses a private session or a break in response to swearing, cursing, yelling, interrupting or insults to a participant.	
Common ground	Any statement by the mediator which points out what participants have in common, a perspective they share, something they agree on, or identifies an issue both have in common.	
Explain	Any statement in which the mediator offers "re-interpretation" or explanation one participant's behavior or position to the other participant, using a name or pronoun in the commentary; states one participant's position to the other participant; asks participants to consider the other's perspective.	
Focus/Narrow	Any comment by a mediator which repeats, clarifies, or focuses the conversation onto specific topics for discussion. Any formal action by the mediator involving making a physical list of topics. Includes questions that ask participants to prioritize the order of topics in which they want to work.	
Introduce Topic	Any statement by a mediator which raises an issue that has not been raised by participants.	
Reject Topic	A comment by the mediator which focuses on eliminating a topic from conversation.	
Ask for solutions/ brainstorm	Any question in which a mediator: asks participants for a suggestion or solution to the conflict; asks participants to describe what they think or plan to have happen in any particular future scenario; attempts to get specifics related to a possible solution (open-ended question) or asks for some kind of clarification about the suggestion. These questions would be who, what, when, where, how as follow-ups to a participant solution, without introducing a new direction; asks participants for solutions using a plural—implying asking for more than one possibility; asks participants to select solutions out of a range that they have identified; Any procedural description of the brainstorming process.	

Summarize solutions	Any statement in which a mediator verbally summarizes the solutions the participants have suggested; summarizes all of the ideas the participants have considered or are considering; summarizes agreements participants have made; Any action by the mediator involving listing the possible solutions. The act of handing participants a written agreement.	
Suggestion question	Any question in which a mediator suggests a solution to the problem; steers participants towards a particular type of solution; steers participants towards mediation guidelines or in a particular direction for the mediation process itself.	
Negotiation question	Questions that encourage positional negotiation and splitting the difference. These generally use compromise language or language that assumes trade-offs.	
Mediator solution	Any statement in which the mediator promotes a solution that did not come from the participants.	
Request reaction	Any question in which a mediator asks participants for their thoughts on a specific suggestion of a solution to the conflict that was made by one of the participants. Any comment after a mediator has summarized a set of items participants have agreed to and asks participants if that will take care of the situation. Any reflection of participants' assessment with a questioning tone or a question attached to it, if the goal is to confirm that status of the possibility. Any comment in which a mediator asks participants to consider a list of possibilities and identify which ideas they want to remove from the lists.	
Legal assessment	Any statement in which the mediator makes a prediction about what might occur in court; evaluates the strengths and weaknesses of the participants' case; instructs participants with legal information or asks questions which provide information about a legal situation.	
Percent time-caucus	Percentage of total mediation time spent in a caucus session.	

APPENDIX B: Revised Case Data Sheet

Mediator's Name: _____ APPOINTMENT DATE: _____

Case Preparation Time: _____ APPOINTMENT TIME: _____

Statewide Juvenile Dependency Mediation Program
Case Data

Unity Number _____ Judicial District_____ Case Number_____ Dept. #____

Previous Mediation? ___Yes ___No

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

Race/Ethnicity: _____Gender Identity: _____

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

Race/Ethnicity: _____Gender Identity: _____
Please list additional children on page 2

Number of children who are the subject of this mediation? _____
Number of subject children siblings (adult/minor) who are not the subject of this mediation? ___

Mediation: ____Ordered by Court _____ Requested by party _____Other
_____

FOCUS OF MEDIATION:

____ Jurisdiction
____ visitation
____ reunification plans
____ TPR
____ other _____
____ petition language
____ placement
____ permanency plans
____ post-adoption contact
____ services for children & parents
____ education issues
____ dismissal orders
____ post-guardianship contact

SPECIAL INSTRUCTIONS: _____

Next Court Date: _____

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

Did the mediation eliminate the need for the court to hold any type of hearing? ___ Yes ___No

If yes, what type of hearing? _____

Settlement Conference _____ Trial/Evidentiary Hearing # of days _____

MEDIATION OUTCOME: _____Mediation Did not go forward

If mediation went forward, please check off the appropriate outcomes:

Mother ____No show __N/A ___Agreement (☐ written/ ☐verbal) ___Partial Agreement (☐written/ ☐ verbal) ___No agreement	Father ____No show __N/A ___Agreement (☐ written/ ☐verbal) ___Partial Agreement (☐written/ ☐ verbal) ___No agreement
Issues agreed:	Issues agreed:

Type of Victimizations:

_____Child Physical Abuse or Neglect
_____Child Sexual Abuse/Assault
_____Human Trafficking: Sex

Current Child Placement: _____

Number of Placement Moves ___
___ Unknown

Special Classifications of Individuals:

	Child	Parent
_____ Deaf/Hard of Hearing	_____	_____
_____ Homeless	_____	_____
_____ Immigrants/Refugees/Asylum Seekers	_____	_____
_____ LGBTQ	_____	_____
_____ Victims with Disabilities: Cognitive/ Physical /Mental	_____	_____
_____ Victims with Limited English Proficiency	_____	_____
_____ Victims of Domestic Violence	_____	_____
_____ Other	_____	_____

Number of surveys distributed _____ **Number of surveys completed _____**

FOLLOW-UP

2ND MEDIATION SCHEDULED:

_____ YES _____ NO DATE: _____ TIME: _____

POST-MEDIATION INFORMATION:

_____

Additional Children

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

Race/Ethnicity: _____Gender Identity: _____

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

Race/Ethnicity: _____Gender Identity: _____

APPENDIX C: Draft Revised Participant Surveys

PROFESSIONAL EXIT SURVEY FOCUSED ON MEDIATION QUALITY

Was this co-mediated? ☐ Yes ☐ No Today's Date: _____

1. What is your role in this case?
☐ Mother's Attorney ☐ Father's Attorney ☐ Child's Attorney ☐ District Attorney/Attorney General
☐ Social Worker ☐ CASA ☐ Other _____

2. 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 _____

3A. Did your session result in an agreement? ☐ Yes, All Issues ☐ Yes, Some Issues ☐ No
3B. If yes, how does the mediated agreement compare with court orders?
_____

3C. If yes, do you agree with the following statements:

We would not have reached agreement without the mediator's help.
☐Strongly Agree ☐Agree ☐ Neutral ☐Disagree ☐Strongly Disagree
We reached agreement more quickly than we would have without mediation.
☐Strongly Agree ☐Agree ☐ Neutral ☐Disagree ☐Strongly Disagree

3C. If no, why do you think an agreement could not be reached?
_____

4. In this mediation, the mediator:

__ A. Appropriately encouraged settlement __ B. Wasn't active enough in encouraging settlement

__ C. Applied too much pressure to settle __ D. I don't know

5. How satisfied were you with the following? Please circle your answer on a scale from **1 "Not at all satisfied to 5 "Very satisfied."**

Your overall experience with the mediation	1	2	3	4	5
The mediator's skill	1	2	3	4	5
The location for the mediation	1	2	3	4	5
The mediator's ability to elicit solutions	1	2	3	4	5

Is there anything that could have made today's mediation more productive/helpful?
_____
_____

Thank you for your opinion. Please put your response in the envelope and seal it before returning.

PARTICIPANT EXIT SURVEY FOCUSED ON MEDIATION QUALITY

Today's Date: _____

1. What is your role in this case?
☐ Mother ☐ Father ☐ Child ☐ Foster Parent ☐ Relative ☐ Other _____

2. Did your session result in an agreement? ☐ Yes, All Issues ☐ Yes, Some Issues ☐ No

3. Please indicate whether you agree with the following statements. Please circle your answer on a scale from **1 "Strongly disagree" to 5 "Strongly agree"**

Mediation decreased tension between parties.	1	2	3	4	5
The mediator explained goal/purpose of the mediation.	1	2	3	4	5
The mediator gave everyone a chance to talk about what was important to them.	1	2	3	4	5
The mediator understood what was important to me.	1	2	3	4	5
The mediator understood the issues in the case.	1	2	3	4	5
The mediator treated me with respect.	1	2	3	4	5
The mediator treated me fairly.	1	2	3	4	5
I helped provide solutions to the issues.	1	2	3	4	5
I knew what to expect at the mediation.	1	2	3	4	5
I feel like I am part of making decisions on this case.	1	2	3	4	5
I felt like the mediator pressured me to settle.	1	2	3	4	5
The mediation was set at a convenient time for me.	1	2	3	4	5

How satisfied were you with the following? Please circle your answer on a scale from **1= "Not at all satisfied" to 5= "Very satisfied."**

Your overall experience with the mediation	1	2	3	4	5
The mediator's skill	1	2	3	4	5
The location for the mediation	1	2	3	4	5
The mediator's ability to get to solutions	1	2	3	4	5

What did you find most helpful about the mediation session?

_____

What did you find least helpful?

_____

Thank you for your opinion. Please put your response in the envelope and seal it before returning.