

Evaluation of Two Statewide Virtual Dispute Resolution Services in Michigan

FINAL REPORT SUMMARY

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This document has been prepared under an agreement between the Michigan State Court Administrative Office - Office of Dispute Resolution (SCAO ODR) and Courtland Consulting pursuant to grant number SJI-21P006 from the State Justice Institute (SJI). The points of view and opinions offered in this evaluation report do not necessarily represent the official policies or position of the SCAO ODR or SJI.



Acknowledgements

The evaluators wish to acknowledge the service and contributions of the seventeen Community Dispute Resolution Program (CDRP) centers that provide essential dispute resolution services to their communities in all of Michigan's eighty-three counties pursuant to 1988 PA 260, the Community Dispute Resolution Act. Specifically, those of the seventeen center executive directors whose leadership and viewpoints are acknowledged and valued.

Thank you to the mediators who selflessly volunteer their time to help mediate and facilitate disputes and who took the time to answer our questions, providing valuable insights that are incorporated throughout this study.

This study benefitted greatly from the perspectives of the CDRP stakeholders including CDRP center board members, Michigan judges, court administrators, attorneys, prosecutors, educators, school officials, and other referral sources who are dedicated to bringing dispute resolution services to their communities.

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Executive Summary

BACKGROUND

When Michigan Governor Gretchen Whitmer in response to the emergent COVID-19 pandemic issued her stay-at-home order in March 2020, the state's network of 17 Community Dispute Resolution Program (CDRP) centers, like all other legal and judicial institutions in Michigan, promptly ceased in-person operations. For the centers to survive and continue providing needed dispute resolution services, they had to adapt quickly to using virtual methods, not knowing for how long and with little time to plan.

Fortunately, the Michigan Supreme Court, State Court Administrative Office (SCAO) Office of Dispute Resolution (ODR) had recently initiated two forms of virtual dispute resolution (VDR) services. One was Zoom dispute resolution in which trained CDRP center volunteers provide synchronous mediation or facilitation sessions through online Zoom calls instead of in-person. The other was MI-Resolve, an online platform through which parties in a dispute can access the platform 24/7/365 from smartphones, tablets, or personal computers to asynchronously negotiate a resolution directly between themselves or with the help of a trained CDRP volunteer mediator.

To help the CDRP centers continue to provide services throughout the pandemic, SCAO ODR quickly expanded the two VDR initiatives statewide, and in fall 2020 received a grant from the State Justice Institute (SJI) to evaluate the initiatives. Courtland Consulting was hired under the grant to study how the two types of VDR had been used by the centers through 2021 and compare the results of their use to baseline measures for cases resolved face-to-face prior to the pandemic. The study used a variety of methods to obtain multiple perspectives, including key informant interviews, focus groups, and a stakeholder survey. Quantitative data on the resolution of disputes before and after the widespread use of VDR were gathered from the CDRP case management system.

FINDINGS

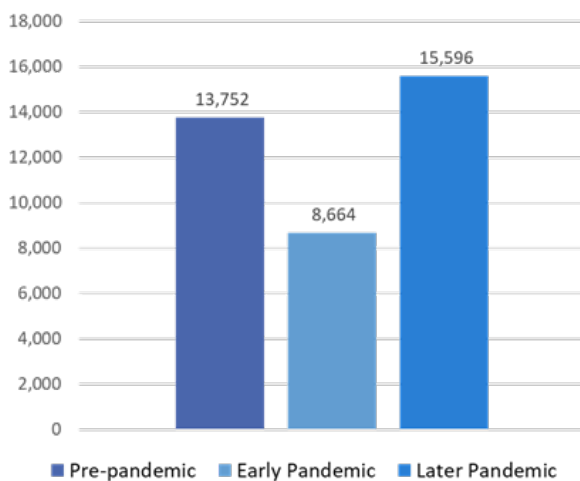
Both types of VDR were available statewide during the pandemic, but while all CDRP centers used Zoom extensively to provide mediation and facilitation services, MI-Resolve was used sparingly except by a few centers. Findings are presented separately for each type of VDR with changes in caseload statistics and outcomes discussed in relation to the use of Zoom dispute resolution (Zoom VDR).

Zoom Virtual Dispute Resolution

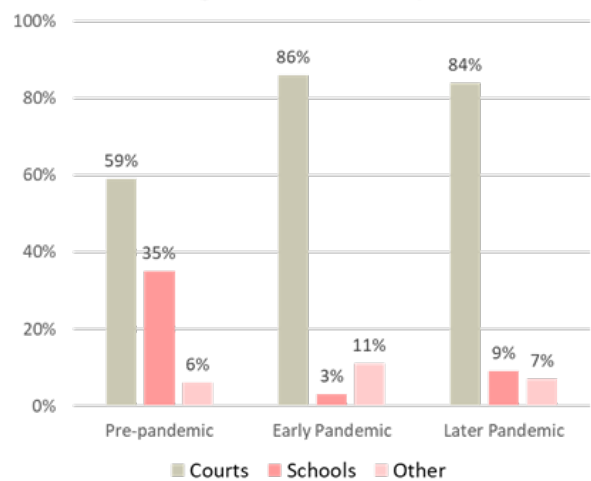
STATEWIDE CHANGES IN CASELOADS

The study examined three 9-month periods: Pre-pandemic (Apr-Dec 2019), Early Pandemic (Apr-Dec 2020), and Later Pandemic (Jan-Sep 2021). First, there was a precipitous drop in referrals from schools that caused the statewide CDRP caseload to decline sharply in the Early Pandemic period. Then, there was a significant rebound in overall caseload size in the Later Pandemic period due to a modest resumption in referrals from schools and a huge influx of landlord/tenant cases, due mainly to the CDRP centers' participation in the Eviction Diversion Program (EDP). The Michigan Supreme Court had issued an Administrative Order which allowed CDRP center mediators to assist the courts by serving as a presiding officer at landlord/tenant pretrials.

Total Referrals



Percentage of Referrals by Source



CENTER GROUPINGS

The 17 CDRP centers were not affected equally by these changes in caseload size and types of disputes referred to them. To study how Zoom VDR was used to respond to the challenges faced, the centers were divided into three groups based on shared changes in their caseloads from the Pre-pandemic period to the Later Pandemic period.

Group 1 - Landlord/Tenant

The six centers in this group had their average caseload grow 113% from 2019 to 2021 due to large increases in the number of landlord/tenant and eviction cases referred to them. Notable uses of Zoom included:

- The three larger centers moved from a model in which each volunteer worked a case “from A to Z” to an “assembly line” model to handle pre-trial EDP cases
- Used the Zoom breakout room feature to host up to 25 EDP cases simultaneously and facilitate obtaining resources for tenants and landlords to avoid evictions

Group 2 - School Contracts

The five centers in this group had the highest percentage of pre-pandemic cases that were school referrals, and due to the use of virtual classrooms during the pandemic their caseload sizes dropped significantly (Early Pandemic period by 64%; Later Pandemic period by 40%). Notable uses of Zoom included:

- Most centers instituted a model in which center staff performed most of the technical and administrative functions of Zoom sessions so volunteer mediators and school contract staff could concentrate on interacting with participants
- Used Zoom to facilitate restorative practices sessions with teachers, school administrators, and staff to ease pandemic-related stresses and strains and help schools retain teachers

Group 3 - Usual Referrals

The six centers in this group, which were heavily dependent on courts for referrals, collectively did not experience major changes in caseload size from 2019 to 2021 (+4%) nor did they see more than minor shifts in the types of disputes referred to them for mediation. Notable uses of Zoom included:

- To maintain caseload sizes, all were proactive in marketing their new Zoom VDR capabilities to judges and other referral sources – toward this end, some helped train local partners in Zoom use
- Two centers worked with the courts to streamline the small claims process using Zoom

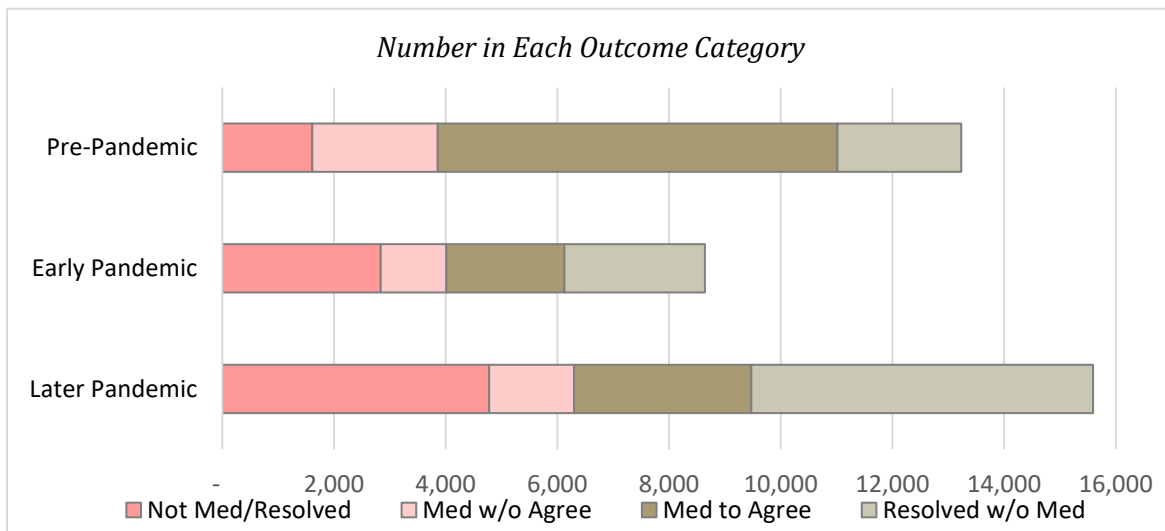
COMMON LESSONS ACROSS GROUPS FROM IMPLEMENTING ZOOM VDR

Readiness	Centers that were already moving in the direction of using virtual dispute resolution were able to pivot more quickly than the others when the pandemic hit and to fully embrace Zoom as a means of delivering services. They experienced shorter shutdown periods and were soon able to market their new VDR capabilities as the solution to problems faced by the courts, their other referral sources, and potential new referral sources.
Volunteers	Volunteer mediators are the life blood of the CDRP centers. All centers lost some longtime volunteers for whom mediation and facilitation via Zoom was not a good personal fit. Centers used an array of strategies to successfully retain volunteers. These included individualized Zoom training, providing computer equipment so they could volunteer from home, and having center staff perform the technical and administrative functions of the Zoom sessions so they could “just mediate.” When recruiting new volunteers, centers usually focused on bringing in younger, tech savvy individuals who would already be comfortable with Zoom and could be trained more easily to mediate and facilitate this way.
Staffing	Staff retention and burnout, particularly in the early part of the pandemic when centers were switching to Zoom, were issues for all centers. Centers that had at least one staff member or volunteer onboard who already had good Zoom skills transitioned more smoothly. The common lesson found was that for a virtual system to work often requires substantial changes in staff roles and responsibilities and an increase in the amount of support provided to them.
Service Model Flexibility	With Zoom, most centers continue to use a dispute resolution model in which a volunteer mediator or facilitator is responsible for resolving each assigned case from beginning to end. However, the assembly line-type processes developed by Group 2 centers demonstrates the flexibility that Zoom VDR provides for creating new service models. Centers in each group capitalized on its flexibility and worked with courts to streamline and speed up the resolution of common cases, such as small claims, by adjusting the referral, intake, and scheduling processes that Zoom accommodated.

EFFECTIVENESS AND SATISFACTION

Effectiveness

Cases were counted as successfully resolved if they were mediated to agreement, facilitated, conciliated, or settled prior to the scheduled session. In the Later Pandemic period, the centers used Zoom to achieve positive resolutions for 59 percent of the cases referred to them, as compared to a 71 percent rate in the Pre-pandemic period. However, in both periods the centers successfully resolved around 9,300 cases. The successful resolution rate using Zoom would have been higher during the pandemic except for a substantial increase in the number of cases that were unresolved because parties could not be contacted or one of them failed to show for a scheduled session.



During the pandemic, centers received more cases that required facilitation services rather than mediation, which increased the number of cases that were successfully resolved without a mediation session and decreased the number that were mediated to agreement. Among cases where mediation was held, 68% were mediated to agreement using Zoom compared to 76% during the pre-pandemic period. A large majority of mediators and stakeholders who were surveyed said Zoom mediation was either just as effective or more effective for resolving disputes as in-person mediation.

Satisfaction

About 90 percent of referral sources and center personnel surveyed were satisfied with the CDRP centers' use of Zoom VDR (55% "Very Satisfied"). Nearly all said that the parties served via Zoom were just as satisfied with the services as those served in-person prior to the pandemic.

MI-RESOLVE

UTILIZATION

MI-Resolve became active in all 17 CDRP centers by July 2020. All but five centers reported having resolved disputes virtually through the system by January 2021. The MI-Resolve vendor could not provide the evaluation with any data on utilization or case resolution. In focus groups conducted with center executive directors in the summer of 2021, about half reported that they had received 0-10 MI-Resolve cases while the others reported numbers in the 50-300+ range. Those who had used it said the following local factors helped or hindered the centers' successful use of MI-Resolve:

<i>Helped Implementation</i>	<i>Hindered Implementation</i>
<ul style="list-style-type: none">• Ease of access for disputants who had the right equipment and internet access• The center's outreach to courts and referral sources that convinced them to adopt MI-Resolve and to encourage citizens in disputes to use it• Community support for referrals to MI-Resolve and funding of ancillary services such as kiosks to increase access	<ul style="list-style-type: none">• Problems in locating the respondent in the dispute when the initiator didn't have complete contact information• Lack of interest by some local courts• Reluctance by staff and mediators to try a new option if the current system was seen as working well

EFFECTIVENESS AND SATISFACTION

In the survey, respondents from courts and other referral sources generally reported MI-Resolve to be an effective means for resolving disputes. However, center personnel were split in their assessment, with higher ratings of effectiveness coming from centers with higher usage rates. As with ratings of effectiveness, directors in centers that had higher usage rates expressed greater satisfaction with MI-Resolve as a form of VDR. Among the small number of survey respondents with direct knowledge of users' experiences, all said users were satisfied or very satisfied with MI-Resolve.

CONCLUSIONS

ZOOM VDR

CDRP centers adapted well to the use of Zoom VDR under difficult circumstances

- Under the leadership of the center directors and their boards, center staff and volunteers found creative ways to integrate Zoom VDR into their service models – even when there were significant changes in their caseloads
- Without Zoom, CDRP centers would not have been able to continue operations and meet the demands of citizens, courts, and other referral sources during the COVID-19 pandemic
- Some centers used Zoom VDR to completely rework their service delivery models for certain dispute types, and see more opportunities in other areas

Zoom VDR is an effective tool for CDRP centers

- Case data indicated that during the pandemic Zoom VDR was nearly as effective in resolving disputes as in-person mediation and facilitation had been previously, and that its efficacy is likely to improve
- Zoom VDR has been judged by center personnel and those referring cases to CDRP centers to be as effective as in-person methods for resolving most types of disputes
- All center directors found it to be a “useful tool in our toolbox” – and for many it will be the preferred tool going forward

The use of Zoom VDR has been established throughout the network of CDRP centers and is here to stay

- The pandemic forced all CDRP centers to use Zoom and thus accelerated the establishment of VDR as a viable and acceptable option throughout the state
- Now that the courts and others have seen what the centers can do for them when using Zoom VDR and witnessed its efficiencies, it is likely that they will want to expand its use
- All the center directors have confirmed that they intend to continue using Zoom and are creating hybrid service delivery models that post-pandemic will offer a mix of in-person and Zoom dispute resolution services

MI-RESOLVE

MI-Resolve has shown potential and has the capacity to develop more fully in the near future

- Because it is provided online, and free of charge to Michigan citizens, it increases access to dispute resolution services and, if successfully used, will reduce the need to go to court and thus lessen the demands on the judicial system.
- Even if using MI-Resolve does not produce an immediate agreement, it can be a useful first step in dispute resolution. Some CDRP centers and courts have found that using MI-Resolve helps users gather needed documentation and organize their arguments so that subsequent hearings or mediation sessions go faster and are more productive.
- There is collective anticipation of what MI-Resolve can do now that multi-party functionality has been added. Once more training is provided and operating issues identified and resolved through use, it has the potential to prevent more types of disputes from going to court.
- Other planned enhancements, such as a system dashboard and an interface allowing data to be uploaded to the CDRP case management system, will greatly enhance the ability of SCAO and the centers to monitor MI-Resolve utilization and outcomes.
- The positive opinions of MI-Resolve held by directors whose centers have used it the most, indicate that other centers may also find it to be a useful tool once they have more experience with it.
- It is important that the CDRP centers continue to actively promote MI-Resolve for it to become more widely adopted.

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1. Introduction

Nationally and in Michigan the COVID-19 pandemic and the resulting economic turmoil have created an escalating crisis for citizens who want and need court assistance in resolving everyday civil disputes. Public health COVID-19 restrictions curtailed the public's access to in-person assistance at courthouses, creating delays and case backlogs. Courts also faced an avalanche of new disputes as provisions of the CARES Act expired and citizens and businesses struggled with issues regarding credit, contracts, landlord/tenant disputes, and particularly evictions.

A partial solution to this crisis was to increase the use of alternative dispute resolution (ADR) services, specifically the use of web-based online platforms to resolve disputes without the need for face-to-face interaction. For years, Michigan through its Community Dispute Resolution Program (CDRP) has been a national leader in using in-person ADR to help citizens resolve disputes in a fair and timely manner that does not involve going to court. Currently the program supports 17 nonprofit CDRP centers located strategically across the state. The centers, some of which have operated for over 30 years, rely on trained volunteer mediators and facilitators to meet with the parties and provide high-quality, free, or low-cost dispute resolution services. Prior to the pandemic, the centers managed nearly 20,000 cases annually thanks largely to the over 16,000 hours of volunteer time donated each year.



Since the pandemic began in early 2020, the CDRP centers have increasingly relied on web-based platforms to provide dispute resolution services that they formerly delivered face-to-face. This report documents how the centers have made this transition in the context of Michigan's unique ADR program and in response to the pandemic and to recent changes in the size and makeup of their caseloads. It is hoped that the lessons learned from this study will be useful to the Michigan judiciary, other states, and to the approximately 400 community mediation centers that exist throughout the country.

Purpose of Study

In the fall of 2020, the **Michigan Supreme Court, State Court Administrative Office (SCAO) Office of Dispute Resolution (ODR)** applied for and received a grant from the State Justice Institute (SJI) to evaluate the use of two forms of virtual dispute resolution (VDR) services that had recently been initiated in Michigan and were expanded statewide in response to the COVID-19 pandemic. Both forms of VDR manage referrals of small claims, landlord/tenant (including eviction), general civil and neighborhood disputes and are administered through the statewide network of CDRP centers.



The first form of VDR is Zoom dispute resolution¹ through which the CDRP centers provide synchronous mediation or facilitation sessions through online Zoom meetings instead of in-person as was done prior to the pandemic. The second VDR option is MI-Resolve, an online platform through which parties in a dispute can access the platform 24/7/365 from smartphones, tablets, or personal computers to asynchronously negotiate a resolution directly between themselves or with the help of a trained mediator. It is hosted by a contractor, Matterhorn by Court Innovations, and administered by the local CDRP centers.

SCAO ODR used the SJI grant funds to contract with Courtland Consulting to study the implementation of the two types of VDR through 2021 and compare the results of their use to baseline measures for cases resolved face-to-face prior to the pandemic.

This evaluative information is intended to help SCAO and the local CDRP centers decide how best to continue using these two forms of VDR for the duration of the pandemic and beyond. The study results may also be helpful to staff at community mediation centers in other states that are also making the transition to VDR services.

The study's objectives and methods are discussed in Section 2 of this report. First, however, it is necessary to describe Michigan's Community Dispute Resolution Program so the reader can understand the context in which the two VDR services were introduced.

¹ The SCAO ODR began an initiative in early 2020 to encourage CDRP centers to use VDR by supplying them with Zoom® licenses. The use of this online videoconferencing platform to resolve disputes between parties was commonly referred to as Zoom mediation by those using it in the centers. Since the centers also used Zoom quite often during the pandemic to conduct group facilitations and provide restorative practice services, this report uses the term Zoom dispute resolution, and sometimes Zoom VDR, to provide a more encompassing description of the type of VDR being evaluated. If SCAO had promoted the use of a different platform, e.g., Skype® or Microsoft Teams®, a different descriptor would have been used.

Michigan Community Dispute Resolution Program



The **Michigan Community Dispute Resolution Program (CDRP)** was established by 1988 PA 260 [MCL 691.1551 et seq; MSA 27.15(51) et seq] to help fund community dispute resolution centers to provide mediation, facilitation, conciliation or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process. The program was initially designed to relieve court dockets and make dispute resolution services more accessible in communities throughout Michigan. The program provides non-adversarial options

for parties seeking conflict resolution where a court case is present or prior to a court case being filed. The types of disputes include but are not limited to civil matters including disputes over money owed and contracts, neighborhood disputes, landlord/tenant issues, probate and guardianship matters, and domestic matters including parenting time and divorce, permanency planning and child protection, and school disputes.

The first CDRP centers were established in 1990 and statewide availability of dispute resolution services was achieved in 1994. Currently the program is funded from fees that accrue in the civil court filing fund. Operating funds are distributed to the centers as annual grants with a 35 percent matching requirement. The CDRP operates at two levels: through the state-level office that administers the program and provides CDRP grant funding, and through the community-level agencies that provide the dispute resolution services using the grant funding they receive from the SCAO and revenue they generate in their service areas.

State Court Administrative Office Office of Dispute Resolution (ODR)

The Office of Dispute Resolution (ODR) administers the CDRP, provides technical assistance to funded centers, and coordinates all alternative dispute resolution services of the SCAO. It distributes the annual grants to the centers and measures performance, which is used by formula in conjunction with a prorated share of filings allocated to each center. The office's other primary purposes include:

- increasing the awareness of dispute resolution options among the legal system's many constituents
- helping courts increase dispute resolution options for people using the court system
- developing and evaluating specialized dispute resolution programs and services

The ODR also helps other divisions of the SCAO design collaborative dispute resolution processes and develops and delivers training programs. Additional services the office provides include reviewing mediator training programs and materials, publishing reports and public education materials, and program evaluation.²

² For more information, go to the Michigan ODR website: <https://www.courts.michigan.gov/administration/offices/office-of-dispute-resolution/>

Community Dispute Resolution Centers (CDRP Centers)

Each year, nearly 40,000 Michigan citizens who might otherwise have a court hearing or trial resolve their disputes through services provided by one of the 17 local CDRP centers, which together cover all of Michigan's 83 counties. The number of counties served by each CDRP center can range from one large urban county - with upwards of 20 district courts, one probate and one circuit court - to 10 small rural counties that may have as few as one district, one shared probate and one shared circuit court in each county. Each local center is a nonprofit organization with a board of directors and is led by an executive director with a staff of from one to eight paid employees, depending on the level of funding. The dispute resolution services offered include mediation, facilitation, and conciliation.

Each center recruits interested individuals and attorneys to provide dispute resolution services as volunteers. To provide services as a volunteer mediator, individuals must complete either a 40-hour General Civil Mediation (Michigan Court Rule 2.411) or 48-hour Domestic Relations Mediation (Michigan Court Rule 3.216) training approved by the State Court Administrator, observe at least two mediations conducted by an approved mediator, and conduct at least one mediation to conclusion under the supervision of an approved mediator. The CDRP centers can also sponsor trained mediators' attendance at advanced mediator trainings offered through the SCAO ODR, such as MI-Resolve training or adult guardianship and child protection mediation training. The centers either conduct a dispute resolution training themselves, offer a co-training with other centers, or contract with a private trainer.

Prior to the pandemic, volunteers usually met face-to-face with disputants during regular business hours at the local center or at a courthouse. In rural areas, these volunteers frequently drove to different counties on designated days to meet with disputants at their local courthouse and could be reimbursed for mileage if that was the center's policy. In addition to face-to-face dispute resolution, these volunteers were often responsible for assisting parties in the scribing or completion of forms and paperwork associated with the case. Some centers also had contracts with local school districts to facilitate or mediate school problems or issues and would dispatch paid facilitators to schools on particular days to help resolve multiple cases in one visit.

The CDRP grants do not cover all the centers' costs. Grant recipients are required to provide a matching amount equal to at least 35 percent of the awarded grant. Each center has found creative ways to obtain additional funds from a variety of external sources with the help of their local board of directors that usually includes a diverse group of community leaders. Before the pandemic, these efforts generated additional revenue from county, school, and court contracts, training revenue, case fees, fundraising events, community foundations, and donations. Centers that applied for federal COVID-19 relief funds and received monies in 2020 and 2021 were able to replace some of these local funds that were lost due to the pandemic.

Use of Virtual Dispute Resolution Prior to the COVID-19 Pandemic

Prior to the pandemic, SCAO ODR had already begun to promote the use of virtual dispute resolution at the CDRP centers through two different initiatives. The first involved buying a Zoom license for each center and training center staff and volunteers on how to conduct virtual mediation. The goal was to help centers increase access to mediation services for people reluctant or unable to participate in face-to-face meetings due to work schedule conflicts, disability, transportation or childcare problems, or other reasons. This initiative was launched in January 2020, just before the COVID-19 pandemic began, a few of the centers had already started using Zoom meetings for a limited number of disputes. By January 2020 all CDRP centers had received Zoom account invitations, and drop-in training sessions were offered by the SCAO ODR to allow for a Zoom “test drive.” In late March, after the pandemic had hit and stay-at-home orders were issued, the CDRP centers requested Zoom training from SCAO ODR, which produced and distributed the guide “Using Zoom to Conduct Online Mediation: Considerations and Resources for CDRP Centers.” Many centers reported customizing this document to include specific procedures and additional software used for e-signature agreements.

The second initiative was a pilot test of MI-Resolve by three of the centers, began in late 2019. This online system uses the “Matterhorn” platform developed and hosted by the firm Matterhorn by Court Innovations based in Michigan and is administered by the CDRP centers. The platform had been used by several courts around the country chiefly to resolve traffic citation and small claims, and single person civil cases. The Michigan application was different because it involved the use of a third-party neutral mediator and was deployed statewide through the CDRP centers. Disputants in the pilot sites had limited use of MI-Resolve before the pandemic began in 2020.

When stay-at-home orders were issued in March 2020 in response to the COVID-19 pandemic, Michigan courts and the CDRP centers could no longer provide in-person services and had to quickly develop an integrated system for delivering these services virtually. This greatly accelerated SCAO ODR’s plans for implementing VDR options throughout the network of centers. The SJI grant was secured in part to document how this was accomplished as well as to study the efficacy of Zoom dispute resolution and MI-Resolve for resolving civil disputes.

2. Evaluation Objectives & Methods

The State Justice Institute (SJI) grant that funded this study was one of several grants awarded to courts across the country to help identify and replicate innovative and alternate means of delivering judicial services in the face of pandemics and natural disasters. Using this grant, the Michigan Supreme Court, State Court Administrative Office (SCAO) hired Courtland Consulting to evaluate the implementation and continued use of two virtual dispute resolution (VDR) services offered by centers in the Community Dispute Resolution Program (CDRP).

Objectives

The evaluation of Zoom dispute resolution and MI-Resolve, which were implemented statewide in 2020 near the beginning of the COVID-19 pandemic, had the following objectives:

Track	Track the extent to which Michigan’s citizens have used these two forms of VDR since they became available to the public.
Describe	Describe their implementation; summarize any changes and improvements that have been made through 2021; and recommend ways in which these VDR processes can be improved to better serve citizens’ needs during a period of pandemic and afterwards.
Document	Document the extent to which these two online processes are perceived as effective, user-friendly, accessible, and fair to all parties; assess degree of satisfaction with the two processes as expressed by users, mediators, CDRP center directors, attorneys, judges, court administrators, and other stakeholders.
Measure	Measure the extent to which the two VDR processes have affected a variety of performance and outcome indicators, including: the volume of cases, length of time to resolution, mediation occurrences, and percentage of successful resolutions. Compare these to rates for pre-pandemic cases that used traditional in-person mediation.
Produce	Produce an evaluation report for SJI, the Michigan Supreme Court, SCAO, and the courts to use in planning how to best deploy these VDR resources to meet new demands created by the pandemic and its aftermath.
Create	Create summary materials (executive summary and presentation slides) that SCAO can use in webinars, training sessions, press releases, presentations at professional meetings, and on its website to disseminate the results of the evaluation.

Methods

The evaluation used a variety of research methods to obtain multiple perspectives on the process and outcomes of disputes mediated online through MI-Resolve and Zoom dispute resolution.

Interviews

Interviews were conducted with key informants from SCAO and Matterhorn by Court Innovations Inc., the vendor hosting MI-Resolve, to gain an understanding of how the two forms of VDR were intended to operate, the training and support provided to the CDRP centers, how implementation proceeded, issues that arose and how they were addressed. The interviews included questions regarding the extent to which, and under what circumstances, the two forms of VDR should be used when the CDRP Centers are able to reopen and conduct in-person mediations. Those interviewed, including the Chief Justice of the Michigan Supreme Court, also had the opportunity to suggest ways these mechanisms could be improved or better integrated into the current Community Dispute Resolution Program and the Michigan judicial system.

Analysis of Case Data

The primary source of quantitative data for assessing the impact of Zoom dispute resolution was the MADTrac case management system maintained by SCAO. MADTrac is a Microsoft Access database that SCAO and the CDRP centers have used for many years to track cases and generate statewide and center-specific reports regarding the delivery and outcomes of dispute resolution services. Originally, the evaluation plan proposed comparing data from three periods: pre-pandemic, pandemic, and post-pandemic. However, given the continuation of the COVID-19 pandemic through 2021, the evaluation transitioned to looking at data from the following 9-month periods:

- *Pre-pandemic* (April-December 2019). During this baseline period immediately prior to the pandemic, dispute resolution services were provided face to face as they had been for decades.
- *Early Pandemic* (April-December 2020). During this period, the centers were retooling their operations in response to the pandemic and services were delivered virtually via Zoom. The period from January to March 2020 was not examined in this study since courts and centers provided in-person services during much of this time but were closed or operating virtually for at least some of this period.
- *Later Pandemic* (January-September 2021). Mediation and other dispute resolution services such as facilitation and conciliation continued to be provided virtually, but by now the centers were experienced in this method of service delivery and had adjusted their operations accordingly. Data collection did not continue beyond September in order to meet the reporting deadline of early 2022 for this report.

For this evaluation, SCAO generated three datasets – one per study period – that contained nine months of cumulative MADTrac data for each of the 17 centers. The information included the number and types of disputes referred for dispute resolution by the courts, schools and others, the outcomes for these cases, and the average days to disposition for each type of dispute. The datasets were then combined by the evaluator and comparisons made between periods.

MI-Resolve is a stand-alone system with its own software developed by Court Innovations to track and report on cases that use this online platform. It was anticipated during planning that case data from this system would be made available for the study; however, by the end of the study period, the capacity to export or report such data was not yet developed. Therefore, the evaluation was not able to include any quantitative data regarding the use of MI-Resolve and its outcomes.

Focus Groups

Two rounds of virtual focus groups were conducted for this study. The first round was with all 17 directors of the CDRP centers and conducted in the summer of 2021. Five group sessions with two to five directors at a time were conducted by the evaluator. Directors were grouped together whose centers had experienced similar changes in their caseload sizes and rates of dispute resolution success as shown by MADTrac data from the first two study periods (Pre-pandemic and Early Pandemic). For example, directors of centers that had seen substantial drops in their caseloads due to lack of referrals from schools closed by the pandemic were in one group, while those who had experienced increased caseloads due to court referrals from the eviction diversion program were in another. The goal was to have directors with similar experiences discuss how their centers had used VDR services to adapt to these changes.

The second round of virtual focus groups was with volunteer mediators from across the state, but they were not grouped by center. Email invitations were sent to lists of mediators provided by the center directors, and those who were available on the scheduled dates for the groups then participated. Two groups were held with a total of six mediators participating. The goal of these groups was to gain the perspectives of those who conduct mediation sessions to see how they had adapted to using Zoom and how it compared to in-person mediation.

Stakeholder Survey

CDRP center executive directors were also asked to identify and provide contact information for individuals in their local areas whom they considered to be stakeholders with a vested interest in the success of their programs and who were also familiar with the center's current use of virtual dispute resolution. These included members of the centers' boards, judges, attorneys, and those who referred cases for mediation from the courts and elsewhere. In January 2022, an online survey of these stakeholders was conducted using the Survey Monkey platform. Mediators who had been unable to attend the mediator focus groups were also offered the opportunity to complete the survey. The initial plan was for disputants to be surveyed as well, but they were not due to privacy concerns cited by the SCAO.

The purpose of the survey was to obtain the opinions of a diverse set of stakeholders regarding the utility of Zoom dispute resolution and MI-Resolve and whether they thought these forms of VDR increased access to dispute resolution services, improved outcomes, and increased user satisfaction. Of the 81 individuals to whom a survey link was emailed, 51 completed the questionnaire for a 63% response rate.

3. Implementation of the Two VDR Services

When Michigan Governor Gretchen Whitmer in response to the emergent COVID-19 pandemic issued her stay-at-home order effective March 17, 2020, the CDRP centers like all other legal and judicial institutions in Michigan had to promptly cease in-person operations. For the centers to survive and continue providing needed dispute resolution services, they had to adapt quickly to using virtual methods, not knowing for how long and with little time to plan. Some transitioned within hours, while others took weeks or months to fully incorporate virtual dispute resolution (VDR) practices into their centers' operations. Factors that determined the rate at which each center was able to switch gears and make the transition included: technology, training, communication, leadership, staffing, funding, location, and the center's relationships with local referral sources.

This chapter draws on materials provided by SCAO and the MI-Resolve vendor, as well as interviews and focus groups conducted for the study, to describe how Zoom dispute resolution and MI-Resolve were implemented across the network of CDRP centers. It examines how the factors listed above affected the implementation of these two VDR services.

3.1 Zoom Dispute Resolution Implementation

3.1.1 Differences Between In-person and Zoom Dispute Resolution

Before discussing how the centers implemented Zoom dispute resolution, it is useful to highlight the ways in which Zoom, and in-person dispute resolution are different so as to clarify the types of changes that CDRP center staff and volunteer mediators and facilitators had to cope with while switching to this form of VDR.

When face-to-face mediation is conducted, the disputants meet at a scheduled time and at a designated location with a neutral third party (the mediator) to try to resolve their dispute and reach a mutual agreement or understanding. The mediation session is held in a safe, neutral setting such as the mediation center, a courthouse, or a school. In rural areas, the parties and the mediator may have to drive long distances to meet, with mediators often scheduling back-to-back appointments on designated days so they can minimize travel while handling multiple disputes. Breakout rooms are used to deescalate tensions or speak with individual parties to obtain information for negotiation that often leads to resolving the dispute. Mediators scribe or complete forms and paperwork when agreements are reached, and the parties immediately sign at the table.



With Zoom mediation, the disputants still meet with the mediator at a scheduled time, but negotiations are conducted online using Zoom, and the parties are usually in separate locations. Little or no travel is involved with all parties and the mediator often participating from home or at their center's office. To participate in a session, all parties must have access to a computer, smartphone or other equipment that can handle the technical requirements for Zoom meetings, as well as have an internet connection with sufficient bandwidth to enable Zoom video and audio. All parties must also have sufficient technological skills and abilities to use Zoom so they can fully participate in the meetings or else be trained beforehand. If one party doesn't have access to the internet, the party may join with audio only or the mediator may change the meeting to a telephone conference call so that all parties have the same access to the information available at their mediation.

Zoom mediation accommodates many of the practices that in-person offers. If parties need a break or wish to talk privately with their attorney or the mediator, they can be moved to a virtual breakout room for a caucus as can be done in face-to-face mediation. Scribed agreements and documents are generated and shared onscreen for all parties to review in real time. Documents are signed electronically and sent electronically to the parties.

With Zoom, mediators may not be able to tell if a person is alone and participating within a safe environment, which is of particular concern in some types of disputes such as domestic relations and divorce cases. Mediators have adjusted their opening statements to clarify who is in attendance and to ensure that no unnecessary or unwanted persons are part of the conversation, which helps ensure it is a private and confidential setting.

These same differences and similarities exist between in-person and Zoom facilitation in which a facilitator helps groups of people discuss issues and seek solutions to shared problems. For instance, some people may be able to participate in Zoom facilitation who would not have been able to travel to a group meeting and vice versa. A caucus that would have been held in a physical breakout room can be done virtually in Zoom and notes and other group products can be shared onscreen rather than on a whiteboard or flipchart.

3.1.2 Implementation Timeline for Zoom Dispute Resolution

In the year prior to the COVID-19 pandemic, a few CDRP centers had started using Zoom technology on their own in cases where disputants couldn't meet face-to-face due to work conflicts, disability, transportation, childcare difficulties, or other reasons. One of the larger centers reported using Zoom as early as July 2018 mostly for probate disputes.



In January 2020, SCAO ODR purchased a Zoom license for every center as part of an initiative to encourage centers to incorporate Zoom VDR into their service delivery options. In January 2020, the centers received their Zoom account invitations and SCAO ODR scheduled a drop-in meeting for center executive directors to "test drive" the Zoom platform. While not a formal training, it helped centers become familiar with Zoom before the pandemic.

In late March 2020, after the pandemic started, SCAO ODR developed a Zoom training document and provided multiple trainings at individual center's requests. Most centers had conducted their first Zoom dispute resolution session by April 2020; the last center to begin using Zoom did so in July 2020.

3.1.3 Factors Affecting the Transition to Zoom Dispute Resolution

Focus group discussions with CDRP center executive directors and mediators revealed several factors, or forces, that either accelerated or slowed their individual center's transition from in-person to Zoom virtual dispute resolution. Key factors brought up in these focus groups included technology, staffing and volunteers, training, changes in referrals and referral sources, leadership, and funding as well as how the pandemic affected these factors.

TECHNOLOGY

When the statewide stay-at-home order was issued, centers had to scramble to set up an operating system in which dispute resolution services could be delivered remotely by staff and volunteers from their homes and other locations.

DATA ACCESS

A key challenge was accessing data and other information stored on office servers and computers so they could continue their work and communicate with clients, referral sources, partnering agencies, and other center staff and volunteers. Some centers reported loading, testing, and setting up GoToMyPC, which gave staff remote access to their office desktops. All CDRP centers utilize the MADTrac case management system created by SoftGoals, LLC® which is provided by SCAO ODR and maintained at the individual centers. Some centers reported moving their local MADTrac data system to a cloud-based format, which better positioned them to manage cases and deliver services remotely.

PHONES

Some centers had voice over internet phone (VOIP) systems which provided some ease in transitioning phone access, while others initially set office phones to call forward to personal phones.

SOFTWARE AND EQUIPMENT

SCAO ODR provided one Zoom license to each center, however most reported needing more depending on the size of their caseload and number of staff. The center executive directors had to identify and purchase the additional Zoom licenses, laptops, extra monitors, and printers to deploy among staff and volunteers. In some cases, the volunteers were willing to utilize their own equipment. Often the centers had to buy additional equipment that was not included in their current year's budget to support Zoom VDR.

SIGNATURES

Signature processing was another challenge. Mediation begins with a confidentiality agreement that requires a signature and, if successful, concludes with a signed agreement. Some centers purchased DocuSign or other e-signature software that allowed for real-time signatures enabling agreements to be completed and signed during the Zoom session. Some mediators reported using a verbal consent process whereby the parties provide their

consent verbally and the mediator or staff sign the agreements in real-time for them and email copies to everyone after the session is completed.

DIGITAL DIVIDE

In addition to the centers' technology needs, the parties involved in a dispute also need access to technology to participate in virtual dispute resolution. A laptop, tablet, smartphone, or PC with a speaker and a camera with internet access are needed to access Zoom. In rural areas with limited broadband internet access, or in lower income areas, lack of access to needed technology or connections was a barrier to using virtual dispute resolution services. These challenges were common with other virtual access services (online school, health care, etc.) during the pandemic. Compounding the challenge, public libraries, courts, and schools that previously offered free internet and computers were also closed. In some cases, parties had to find friends, families, or neighbors who had the technology needed to get online.

Many local municipalities in Michigan attempted to address the pre-existing digital divides by partnering with technology vendors and internet vendors. Some schools deployed Chrome books or tablets. Vouchers were provided to those who qualify to cover costs for home internet access, and some internet providers began offering up to a year of free internet access. Although, not intended specifically to help parties access the centers' VDR services, these actions did enable some individuals to participate in Zoom dispute resolution services and MI-Resolve who would not have otherwise had access.

STAFFING AND VOLUNTEERS

The normal duties of center staff include scheduling services and the mediators' and facilitators' hours; sending meeting, mediation, and facilitation notices; inputting case information into the case management system; securing electronic signatures; and distributing signed agreements and forms after mediation. When they transitioned to VDR, many center staff added personalized training for mediators unfamiliar with technology to their responsibilities. At some centers, staff host the administrative functions of the Zoom session, setting up breakout rooms if necessary, and close the Zoom session. This allows the volunteers to concentrate only on the mediation or facilitation aspects of the sessions.

Even with these adjustments some volunteer mediators were still not receptive to using Zoom for mediation and stopped mediating or asked to be assigned mediations when it was safe to return to in-person services. Here again the staff and executive director stepped in to mediate cases until the volunteers were trained and/or new volunteer mediators could be recruited. These adjustments, combined with staffing shortages and burnout required center executive directors to seek ways to creatively support their staff and volunteers. Executive directors sought additional funds from their boards to pay for staff and forced breaks into schedules to alleviate Zoom fatigue.

On the other hand, directors realized that the implementation of Zoom dispute resolution created opportunities for them to recruit new volunteer mediators who may not have been able to do so previously. The center executive directors recruited:

- people who couldn't travel but were willing to mediate from their home offices,
- college students as interns,
- mediators who traveled to warmer climates during Michigan winters,
- workers displaced by pandemic-related shutdowns, and
- people who work part- or full-time but have more flexibility due to working from home.

TRAINING

Extensive training was a critical factor in the successful roll out of Zoom Dispute Resolution. In April 2020, the SCAO ODR published a training document titled, “Using Zoom to Conduct Online Mediation: Considerations and Resources for CDRP Centers.”³ The manuals and training provided by the SCAO ODR helped the centers deliver dispute resolution services relatively soon after the pandemic began. Many of these materials have since been localized or customized by the centers to include center-specific content.

Many executive directors worked hard to train themselves to use Zoom which enabled them to train their staff who then trained their volunteers. Volunteer mediators who had experience with Zoom championed the system and offered training sessions for their peers across the state. The center executive directors and SCAO ODR hosted bi-weekly brown bag Zoom training sessions. Training included best practices for VDR, writing agreements, delivering opening statements, discussing confidentiality, and virtual caucusing. Additional brown-bag meetings were offered by local centers that covered VDR etiquette, tips and tricks for advanced Zoom hosting, and the integration of e-signature software.

For those centers facilitating landlord/tenant cases in the Eviction Diversion Program, online training processes were developed by the local centers in partnership with legal aid, the housing authority, and social service agencies.

Because centers screen for domestic violence on every domestic relations case and family division case prior to scheduling the mediation session, the CDRP Domestic Violence Screening Protocol had to be updated so it could be used for both in-person and Zoom mediation.⁴ This was done by experts from the Michigan Domestic Violence Prevention and Treatment Board and the other organizations that had developed the original protocol. Training on the revised protocol was delivered in the summer of 2021 to all center directors, center staff and volunteers responsible for domestic relations conflicts and family division cases.

REFERRALS AND REFERRAL SOURCES

Nearly all centers experienced a lull in referrals for dispute resolution after the pandemic started as courts and other traditional referral sources were also closed to in-person services and grappling with how to continue services. To stay in business, the centers needed to convince their referral sources that they could continue to deliver quality dispute resolution services virtually. Early in the pandemic, many referral sources were skeptical and reluctant to use Zoom either because they didn’t think it would work or because they assumed the shutdown would be very brief. Well-established relationships between center executive directors and their referral sources were critical to changing this perception.

Centers were innovative in their approach to receiving and responding to referrals during the pandemic period. For example, some centers convinced the courts to send complete dockets of cases via a single email instead of individual cases by standard mail. One of the largest centers hired interns who implemented a more efficient online referral process that linked to the center’s website using Wrike project management software.

Some centers had to respond to large changes in the volume and types of referrals received as the pandemic continued. For instance, if a CDRP center mostly resolved school disputes and the schools were closed, then they

³ The link to the full document is: <https://www.courts.michigan.gov/496a4e/siteassets/odr-temporary/documents/zoom-online-mediation-considerations-v1.pdf>.

⁴ <https://www.courts.michigan.gov/4ae455/siteassets/court-administration/standardsguidelines/dispute-resolution/domestic-violence-screening-protocol-for-mediators.pdf>

had to diversify their caseload by approaching other potential referral sources and identifying different dispute types for which they could provide services.

Job losses and economic insecurity during the pandemic lead the United States Centers for Disease Control (CDC) to declare an eviction moratorium, which halted evictions and prompted the creation of Michigan's Eviction Diversion Program. This resulted in a huge increase in the number of landlord/tenant cases. To address this influx the Michigan Supreme Court issued Administrative Order 2020-17 that allowed CDRP mediators to serve as a Presiding Officer for landlord/tenant pretrial conferences. This order prompted most courts to reach out to their local CDRP center for help. More than half of the 17 centers had volunteer mediators providing facilitation of landlord/tenant pretrials in response to court requests for "emergency services" to help with the backlog of cases. One court described the support received from its local center as "a hand coming down and lifting them up from drowning." However, other courts did not refer these types of cases to their local CDRP center because they had an alternative process.

Court referrals continued for domestic relations cases, small claims, general civil, guardianship, probate, victim offender, juvenile offender, child protective proceedings, and breach of contract. However, the degree to which centers continued to receive these types of referrals at pre-pandemic rates varied widely across the state.

CDRP CENTER LEADERSHIP

The CDRP center executive directors often take on every role needed to deliver dispute resolution services to their community and courts and are expected to keep their centers in compliance with all new laws and mandates. When the pandemic accelerated the implementation of virtual dispute resolution services in Michigan, it placed even more demands on these leaders. They often had to develop their own Zoom VDR scripts, flow charts, and paperwork protocols, and then communicate new intake processes to their referral sources and partners and gain their cooperation. They addressed the increased need for staff training and provided support to their more highly experienced volunteers to increase their comfort levels with the new technology. Executive directors organized Zoom social gatherings for staff and volunteers to provide a supportive way to encourage Zoom use and as a form of wellness check. Not surprisingly, the most consistently reported success factor shared by the center directors was their regular interactions with their fellow executive directors to offer support and share lessons learned as they transitioned to Zoom VDR.

Some center directors experienced fewer obstacles when adapting to the new technology because of the strong support of their local board of directors. Boards are made up of diverse sets of community leaders with roles such as attorneys, school officials, county commissioners, judges, mediators, accountants, and others who have a vested interest in helping their communities resolve disputes. Some board members were influential members of the community who leveraged their relationships to secure funding, new referral sources, technology, equipment, and additional staff. The local CDRP center boards were essential in keeping the centers open through these actions and in some cases facilitated major changes in the distribution of dispute types they handled.

Several executive directors were already embracing Zoom and MI-Resolve as alternative methods for delivering dispute resolution before the pandemic and had promoted these options locally to a variety of community referral sources. A seasoned center executive director said that despite the staffing and funding challenges that with virtual dispute resolution in place, "We now have better policies and more flexible policies in place as a result of the pandemic."

FUNDING

Most fundraising events by the centers were cancelled at the onset of the pandemic, and some lost revenue that would have been generated through ongoing contracts with schools or other referral sources. Executive directors reported that they were able to partially replace local funding for staff and seasonal restorative practice staff with two rounds of Paycheck Protection Program (PPP) loans and employee tax return credits. They also recouped some costs from expenses that were no longer being incurred such as mileage reimbursements and gap insurance premiums (covering mediators' expenses in the event of an accident). Other centers reported newly secured funding from sources such as community foundation grants, Cares Act, Small Business Administration monies, and Housing Assessment and Resource Agency (HARA) grant fees allocations. Centers that transitioned to Zoom quickly also were able to generate additional revenue by offering online mediator training and advanced mediator training. The effect on funding from school contracts varied across centers based on whether the individual school district decided to cancel or continue supporting contracts with the centers and help maintain the specific staff supporting their district.

SUMMARY

All CDRP centers have transitioned successfully to using Zoom dispute resolution. The ones that adapted most quickly had these key things in common: a supportive board, open communication with stakeholders, healthy relationships with referral sources, adequate and adaptive funding sources, existing or quickly purchased technology, and at least one volunteer and one staff member experienced in using Zoom. They also relied on the leadership, flexibility, and willingness of the center executive directors and CDRP center boards to this new mode of dispute resolution. Centers with a head start on implementation of Zoom VDR had very little down time from the pandemic since they were able to almost make the transition instantaneously to virtual service delivery. Not every center had the factors needed in place in March 2020, but they all moved forward the best they could with what they had and all 17 remain open today and all are successful at Zoom mediation and facilitation.



3.2 MI-Resolve Implementation

MI-Resolve

In addition to Zoom-based dispute resolution, the SCAO ODR implemented MI-Resolve as an alternate VDR platform with different features and target applications. MI-Resolve is seen as a key to increasing access to justice online. Michigan Supreme Court Chief Justice Bridget McCormack has made access to justice a primary focal point of her work on the Court. The Conference of Supreme Court Justices and the ABA have both recently published resolutions calling for innovation in closing the civil justice gap. Michigan SCAO ODR created MI-Resolve in 2019 with the goal of addressing that gap. As a result of its implementation, Michigan was the first state to have a virtual dispute resolution option available to every citizen in the state.

MI-Resolve system is intended to be a response to the burgeoning access to justice crisis in the United States, where a significant portion of the population simply cannot afford lawyers and are intimidated by the courts and the legal system. It is designed to enable the public to resolve their disputes while avoiding taking time from work to go to court, and the costs of transportation, parking, and possibly childcare, among other costs. Importantly, there is no cost to the parties and the courts for use of the service.

3.2.1 How MI-Resolve Works

MI-Resolve is an online system to resolve disputes. Using it, parties can access a virtual messaging platform from smartphones, tablets, or PCs to negotiate with each other directly to resolve their dispute 24/7/365 with or without the help of a trained neutral mediator from a CDRP center. Whereas traditional in-person mediation and Zoom mediation are synchronous requiring all parties to be engaged at the same time, MI-Resolve is asynchronous so that disputants can engage in negotiations whenever it is convenient for one of them without leaving home or going to court.



Anyone who wishes to use MI-Resolve must:

1. Live, work, or have a dispute in Michigan.
2. Have access to the internet and have an active e-mail address.
3. Agree to the terms listed in the Agreement to Mediate.
4. Be over the age of 18.

Parties start by accessing the MI-Resolve URL that is associated with their local CDRP center and filing their dispute. MI-Resolve allows parties to negotiate disputes online enabled by prompts.⁵ Parties can make offers and counteroffers, upload and download documents, and complete and sign agreements. The center receives daily emails detailing the cases that are assigned to it.

⁵ A short video about MI-Resolve was produced by SCAO ODR explaining the step-by-step process. The URL to view this video is: <https://www.courts.michigan.gov/siteassets/videos/how-to-use-mi-resolve.mp4?r=1> The URL for citizens to access MI-Resolve is: <https://www.courts.michigan.gov/administration/offices/office-of-dispute-resolution/mi-resolve/mi-resolve-online-services/>

If the parties don't have a court case already and no resolution is reached within seven days, the center assigns a trained mediator who will join the conversation. Through written messages and queries, the mediator works to help parties discuss their issues, come to a mutually agreeable solution, and complete an agreement form that they sign electronically. After signature by both parties, the agreement form is sent via email to the parties. The agreement is enforceable in the same manner as any other written contract.

If the parties do have a court case pending, a mediator is assigned immediately without a 7-day negotiation period. When the parties reach a settlement, they must file their signed agreement or the appropriate court form in the specific court in which their case is pending before the scheduled date of hearing or trial. MI-Resolve is confidential, meaning that with few exceptions, such as threats of harm, communications shared within the system cannot be used in court.

One enhancement the MI-Resolve vendor was working on at the time of this report is an interface to allow MI-Resolve case data to be uploaded weekly to MADTrac, the CDRP case management system. The data will be tracked and sorted by center and the statistics will contribute to the performance measures related to funding allocations and annual reporting.

3.2.2 Implementation Timeline for MI-Resolve

CONTRACT AND PILOT IMPLEMENTATION

MI-Resolve was designed and supported by Matterhorn by Court Innovations under contract with SCAO. The platform was based on a Matterhorn system implemented elsewhere to resolve disputes over traffic citations. Extensive modification and development of the platform was necessary to create the MI-Resolve system that allows a plaintiff and defendant in civil court actions, to meet online with a mediator. The modification process took approximately one year. Between August and December 2019, the system was pilot tested in three geographically diverse (rural, urban, mixed) CDRP center sites selected by SCAO ODR. During the pilot phase, case types were limited to civil cases filed in district court such as:

- Claims alleging that money is owed
- Contract disputes
- Neighborhood disputes
- Landlord-tenant matters (rent owed and repairs, but not eviction proceedings)

SCAO ODR identified the following future enhancements before the pilot began:

1. the ability for multiple parties on each side of the dispute to participate, allowing parties represented by counsel to join with their counsel
2. a statistical dashboard so the SCAO ODR could access MI-Resolve data as necessary
3. a spell check application

The following changes to MI-Resolve were implemented based on the pilot site experiences: modification of a few processes in the platform that hadn't worked as anticipated; creation of data rules that prevents parties from entering placeholder information when they don't have complete information for required fields; enhancements to the client dashboard; new template language for email invitations and notices to parties; the addition of relevant court forms; and the ability to directly email signed court forms to the appropriate courts.

Following these changes, SCAO ODR created a training manual and training program for CDRP administrators and mediators.

STATEWIDE EXPANSION

The system was expanded to provide statewide coverage in all 83 Michigan counties as of July 1, 2020. After statewide deployment, Michigan Supreme Court Chief Justice Bridget M. McCormack said, “By expanding online dispute resolution access statewide, we have taken a huge step toward closing the justice gap. This kind of access—particularly during a time of crisis—sends a message that the virtual doors of justice are open to all Michigan residents.”

In December 2021 additional functionality was added to expand the types of cases the system, can support, including eviction proceedings (eviction diversion program) and other complex, multi-party cases. The system now also supports cases where attorneys may join their represented parties on the platform and engage in the mediation.

TRAINING

Initially, Matterhorn by Court Innovations provided the pilot training sessions. However, SCAO ODR took a hands-on approach to provide a more thorough training that went beyond just “how to use the software.” The SCAO ODR trainings included using the platform, topics relevant to mediation, role play activities, suggested opening statements and conversation tips, and a discussion of how mediating on the MI-Resolve platform differs from in-person and Zoom mediation. This method of training allowed SCAO ODR to train future CDRP volunteers and staff more quickly as the system was rolled out across the state.

SCAO ODR provided online training sessions for every center executive director and MI-Resolve administrator, and numerous designated mediators per center. The trainings continue to be provided on request as needed. Online tutorials and refresher training offerings keep centers’ staff and volunteers’ skills current, and new trainings are being designed as new MI-Resolve applications are developed.

OUTREACH



An outreach campaign was launched to make the public aware that MI-Resolve was available as a virtual dispute resolution tool. When CDRP centers came online with MI-Resolve, SCAO ODR provided outreach materials to each center such as brochures, posters and documents called referral pads or police pads (business card size forms) to distribute to local law enforcement agencies, animal control, and other potential referral sources. All centers reported posting links to MI-Resolve on their websites and social media. They

posted press releases and shared information about MI-Resolve with their local courts. Some centers secured local grant funding to do creative marketing of MI-Resolve including billboards and purchasing kiosks to set up in local community agencies enabling parties to open cases using these devices.

The Michigan Supreme Court Chief Justice and the SCAO ODR manager actively promoted MI-Resolve by providing on camera interviews with local news stations when MI-Resolve was being implemented in the remaining sites. They also joined the centers to make a concerted effort to contact local newspapers and publications in the newly implemented areas to talk about MI-Resolve.

3.2.3 Utilization of MI-Resolve

MI-Resolve became active in all 17 CDRP centers in July 2020. All but five centers reported having resolved disputes virtually through the system by January 2021. The vendor, Matterhorn by Court Innovations, could not provide the evaluators with any statistics for this study on utilization or case resolution. In focus groups conducted with center executive directors in the summer of 2021, about half reported that they had received 0-10 MI-Resolve cases while the others reported numbers in the 50-300+ range. New codes were added to the SCAO ODR case management system MADTrac in January 2021 to indicate whether mediation was attempted through Zoom or through MI-Resolve. These codes could not be used in the study because the capacity to export or report MI-Resolve data to MADTrac was still in development.

3.2.4 Factors Affecting the Expansion of MI-Resolve

Focus group discussions held with CDRP center executive directors and mediators and interviews with SCAO and Matterhorn by Court Innovations identified several factors that affected the expansion of MI-Resolve. These include access, system, leadership, center staffing and volunteers, outreach and referral, training, and funding.

ACCESS

MI-Resolve is free, available 24/7/365 from anywhere with internet access through a PC, tablet, or smartphone. While this does increase access to justice, some people still struggle if they don't have such a device or access to the internet, an email address, or technical competency to use the platform. If the parties want to receive text notifications, they must also supply a cell phone number. These barriers to access are more pronounced in rural and low-income areas and among older populations.

To help address these barriers, MI-Resolve creates a secure password for users so they can use the system anywhere there are public internet access points (libraries, schools, courts, community centers). When the pandemic hit, these free internet options were temporarily unavailable.

A major limiting factor to access is the requirement that in order to open a case in MI-Resolve the party initiating the case must provide the email address for the other party in the dispute. Until this is provided, the case cannot go forward. Oftentimes the initiator does not have this email address, does not know where to obtain it, or is reluctant to contact the other party in-person to get it.

SYSTEM

A number of system issues slowed the expansion and use of MI-Resolve. Centers indicated the parties' contact information was often missing or incorrect, primarily because the initiating party didn't have the other party's contact information, especially an email address. To get the case into the system, an initiator will sometimes enter made-up information in the required data fields. It is only days later when the mediator is notified to contact the parties because the case has not resolved on its own that these errors are discovered. Centers also reported that specific submission errors were not clearly identified, leaving the center administrator to "guess" what was wrong. At one point, due to the number of cases in which the first party didn't have the correct contact information for the second party, the instruction fields were changed to suggest to clients that, if they didn't have the required information, they should contact their local center to request help in securing it. Since the center's contact information is included on each URL, staff received many requests asking them to track down the second party.

There were other issues that affected expansion of MI-Resolve:

1. Emails sent to the parties came from an email address that appeared to clients to potentially be spam or a phishing attempt. At the time of this report, the SCAO ODR is working with Matterhorn by Court Innovations to change the email invitations and responses from no-reply@courtinnovations.com to an email address hosted by the centers that will enable clients to respond and ask questions and confirm legitimacy.
2. Even if the first party provides the correct information, the second party may not register and therefore dispute resolution cannot occur. SCAO ODR is researching possible solutions for this issue.

Multi-party functionality was an enhancement to MI-Resolve planned for late 2020, but due to circumstances exacerbated by the pandemic, including significant turnover among the vendor's staff, this new functionality was not rolled out until December 2021. The delays in planned functionality caused some confusion and frustration for centers that had prepared to start using the feature in late 2020. They then had to inform their referral sources that they could not yet support those cases.

LEADERSHIP

The adoption of MI-Resolve by the CDRP centers and stakeholders varied based on the situations found in each center. The executive directors at some centers embraced and implemented the new system while others delayed implementation due to other duties or limitations such as staffing shortages, and MI-Resolve system issues.

At the SCAO, the Office of Dispute Resolution Director who was instrumental in initiating MI-Resolve retired during the pandemic in May 2021 and was not replaced as of this report. The SCAO ODR manager continued to handle all tasks related to CDRP administration including funding, reporting, training, management, and MI-Resolve oversight. The SCAO ODR manager and one highly enthusiastic, experienced CDRP center executive director are currently writing the training modules for domestic relations cases that will be administered on MI-Resolve. They are actively overseeing the continued upgrades and enhancements to MI-Resolve functionality, including testing, and reporting. Their valuable insight and input provided key contributions to this evaluation report.

CENTER STAFFING AND VOLUNTEERS

Center staff and volunteer mediators are integral to the online success of MI-Resolve. Center executive directors, who are responsible for selecting the volunteer mediators to be trained on MI-Resolve, said that MI-Resolve requires a different type of mediator - one who is tech savvy and comfortable and clear with written communication since all correspondence is written and posted electronically. Since the volunteers can access the platform round the clock, it broadens the volunteer base to include those working fulltime since they do not have to dedicate large blocks of time to mediating during normal business hours. They can log on nights and weekends and as much time as they have available during the day.

REFERRAL SOURCES

The acceptance of MI-Resolve as a means of resolving disputes was driven initially by the organizations that usually refer parties to mediation. For example, the courts saw it as a way to help reduce the backlog of cases that had built up in the early months of the pandemic. They reasoned that parties might be willing to try this tool to get a quick resolution of their disputes rather than wait for an eventual court date; even if no agreement was reached, the parties still might be better prepared for court by having gone through this experience.

Toward this end, SCAO ODR sent correspondence to the district court judges and court administrators in MI-Resolve service areas encouraging them to mention MI-Resolve as a virtual dispute resolution service in their notices of hearing. The following is the sample language provided to the courts:



Prior to attending your hearing date, [alternative language: During the COVID-19 crisis, before the court is able to reschedule your case,] you may wish to consider trying to resolve your dispute through MI-Resolve, a new dispute resolution system sponsored by the Michigan Supreme Court. After registering on the system, you can either directly negotiate with the other party, or have a mediator help you identify options for resolving your dispute. If you reach an agreement, the system will generate the necessary forms for you to file with the court. If the other party does not wish to use MI-Resolve, or if you do not reach an agreement, your right to pursue your matter in court and to have your case heard by a judge is not affected. The process is confidential: the court will know only whether you participated in MI-Resolve if the case was ordered by the court and/or if the case was resolved. This means that if you are able to resolve your dispute online, other than ensuring that the proper forms are brought to court, you may not need to appear for further court events. The process is free and available online 24/7. You can access the system through a PC, tablet, or smartphone at: [Insert the appropriate URL for your CDRP Center].

Interest in MI-Resolve was also increased by community outreach materials initially created by SCAO ODR and modified and distributed by the centers. Through this outreach other potential referral sources have become aware of the tool, including community centers, medical facilities, United Way organizations, and local chambers of commerce to resolve disputes.

The unique features of MI-Resolve have also created the opportunity for there to be more self-referrals and a wider variety of disputes resolved than typically come to the centers for dispute resolution. Center executive directors pointed out that the unique features of MI-Resolve being online, asynchronous, and not requiring a mediator increases the chances that MI-Resolve will be used for types of disputes the centers don't usually manage.

TRAINING

In addition to the training, observation and supervision that is required for Michigan civil mediators via Michigan Court Rule 2.411, SCAO offered MI-Resolve training to the executive directors and center staff, as well as the sponsored mediators from each CDRP center. This training was delivered online at the peak of the pandemic, during the stay-at-home orders. Given the timing, and the large class sizes, many centers have sought refresher courses for themselves and their mediators. As the platform continues to be updated, and new features deployed, SCAO ODR is developing new online tutorials, videos, and advanced online training. Trainings provided by SCAO ODR are recorded so centers can view them virtually as their caseloads increase and their experience grows. Some centers offer their staff and mediators ongoing brown bag training sessions or Q&A sessions to assist in skill building.

FUNDING

MI-Resolve is provided free of charge to Michigan citizens and courts because the associated expenses are paid by an allocation of general funds provided by the Michigan Supreme Court.

While MI-Resolve is a free VDR tool with volunteer mediators, there is a cost for the center to manage the activity including staff time, technology, and outreach. In addition to the basic activity, some centers secured additional local grants to proactively buy MI-Resolve data entry kiosks that were placed in prominent locations in the community to overcome access issues and to promote and enable public use of MI-Resolve.

SUMMARY

MI-Resolve occupies a new and unique niche in VDR. Although some factors slowed the expanded use of MI-Resolve, they did not prevent it from being implemented statewide. In fact, the original date of statewide implementation, set for October 1, 2020, was sped up once the pandemic hit, and statewide coverage was achieved by July 1, 2020.

These factors helped centers successfully incorporate MI-Resolve:

- ease of access for disputants with equipment and internet
- regular system updates
- comprehensive training tools provided by SCAO ODR
- community support for funding of ancillary services such as kiosks
- center leadership, vision, and flexibility
- outreach to courts and other referral sources
- a willingness to adopt and promote the services to citizens having disputes

The future of MI-Resolve relies on these factors and the willingness of centers to continue administering MI-Resolve and to provide regular feedback on how to improve it. Their valuable input will help the tool become more robust and ultimately drive more utilization and increase acceptance. MI-Resolve will become more widely utilized as the system continues to improve and evolve and training and outreach are expanded.

4. Statewide Changes in the Volume, Types, & Dispositions of Cases During the Evaluation Period

Data from SCAO's statewide case management system (STATtrac), which compiles all the MADTrac data from the CDRP centers in Michigan, were used to generate statewide statistics for the three 9-month periods examined in this evaluation: Pre-pandemic (April to December 2019), Early Pandemic (April to December 2020), and Later Pandemic (January to September 2021). Comparisons of these numbers found major changes in the sources of referrals, the number and types of disputes handled by the centers, the types of dispositions reported, and the average length of time to disposition.

4.1 Referral Sources

Overall, the number of disputes referred to and disposed by the CDRP centers across Michigan declined significantly during the Early Pandemic period in 2020 compared to the baseline period in 2019. The statewide number of referrals in the 9-month period examined fell from over 13,000 to less than 9,000. However, in the first nine months of 2021 the number of referrals rebounded to more than 15,000 statewide.

The primary cause for the reduced number of referrals to the centers was pandemic-induced school closures. As shown in **Table 4.1**, prior to the pandemic over a third of all referrals came from educational institutions and were related to issues of truancy and other school problems. For three of the centers, including the one with the largest caseload, the majority of their referrals in 2019 were from schools. Referrals from schools dropped from more than 4,800 in 2019 to just 214 in 2020. Although this number increased to over 1,400 in the 2021 period, school referrals still constituted less than 10 percent of the total.

Table 4.1 Referral sources during three 9-month periods for all CDRP centers combined (percentages)

Referral Sources	Pre-pandemic (Apr-Dec 2019) n = 13,752	Early Pandemic (Apr-Dec 2020) n = 8,644	Later Pandemic (Jan-Sep 2021) n = 15,596
Courts	58.5	85.9	83.5
Schools	35.0	2.5	9.2
Self	3.3	5.9	4.4
Legal Organizations	0.8	0.9	0.7
Prosecutors	0.7	1.1	0.6
All Others	1.7	3.7	1.7

In all three periods, the courts were the primary source of referrals in Michigan. The percentage of self-referrals and referrals from other non-school sources (friends, community organizations, businesses, police, etc.) have increased since the pandemic, but still constitute only a fraction of the overall numbers.

4.2 Types of Disputes

Statewide numbers on the types of disputes handled by the CDRP centers show two major shifts across the three time periods (see **Table 4.2**). First, the percentage of disputes involving school problems directly reflected the changes in the number of referrals from schools: both showed a precipitous drop in the Early Pandemic period followed by a modest increase in the Later Pandemic period.

Table 4.2 Types of disputes addressed during three 9-month periods for all CDRP centers (percentages)

Types of Disputes	Pre-pandemic (Apr-Dec 2019) n = 13,235	Early Pandemic (Apr-Dec 2020) n = 8,644	Later Pandemic (Jan-Sep 2021) n = 15,596
Contract Breach	27.4	32.9	23.3
School Problems	33.4	2.5	8.4
Landlord/Tenant	9.8	33.0	45.4
Domestic Relations	12.0	11.4	8.5
Divorce	7.0	10.0	6.3
All Others	10.3	10.2	8.1

The second state-level shift in types of disputes was the rapid growth in the number of cases involving landlord/tenant disputes. During the baseline period, these types of disputes accounted for around 10 percent of the total caseload, but by the Later Pandemic period they constituted nearly half of the cases (45.4%). In absolute numbers, this increase was from 1,296 to 7,085 cases. Landlord/tenant disputes accounted for the majority of the disputes for four of the CDRP centers during the 2021 period, and at one center nearly all the disputes (95%) were of this type. More will be said about the differences among CDRP centers in the types of disputes they processed in the next chapter which focuses on the differences among three groups of centers.

Other frequent types of disputes – contract breach, domestic matters, and divorce (both with and without children) – showed no major changes or obvious trends in state-level data examined over the three 9-month periods. None of the less frequent types of disputes brought to the centers (employment, neighbors, guardianship, child protection, real estate, etc.) accounted for 3 percent or more of disputes across the three periods.

4.3 Dispositions

For the evaluation study, the various types of dispute dispositions reported by the CDRP centers in the MADTrac case management system were grouped into four major outcome categories as defined in **Table 4.3**. Cases were classified as “Resolved” if they had been mediated to a full or partial agreement or if the center staff and volunteers had used other alternative dispute resolution services, such as facilitation or conciliation, to help parties resolve disputes or produce solutions to problems. Cases that were reported as settled prior to mediation were included in the Resolved without a Mediation Session category as the centers had already performed the intake and case preparation work and scheduled mediation sessions prior to the parties settling the cases on their own. In the interviews and focus groups it was found that these types of settlements usually occurred a day or two before the mediation was to be held. It was explained that “Usually scheduling the mediation becomes the catalyst to getting it resolved. Talking to the parties gets them trying to resolve.”

For purposes of the evaluation, cases that had been closed without a resolution being noted or that had been mediated without achieving an agreement were classified as “Not Resolved.” The centers noted in their MADTrac reporting the reasons these cases were closed, such as being unable to contact one or more of the parties, a refusal to participate, or one or more parties failing to show for the mediation session.

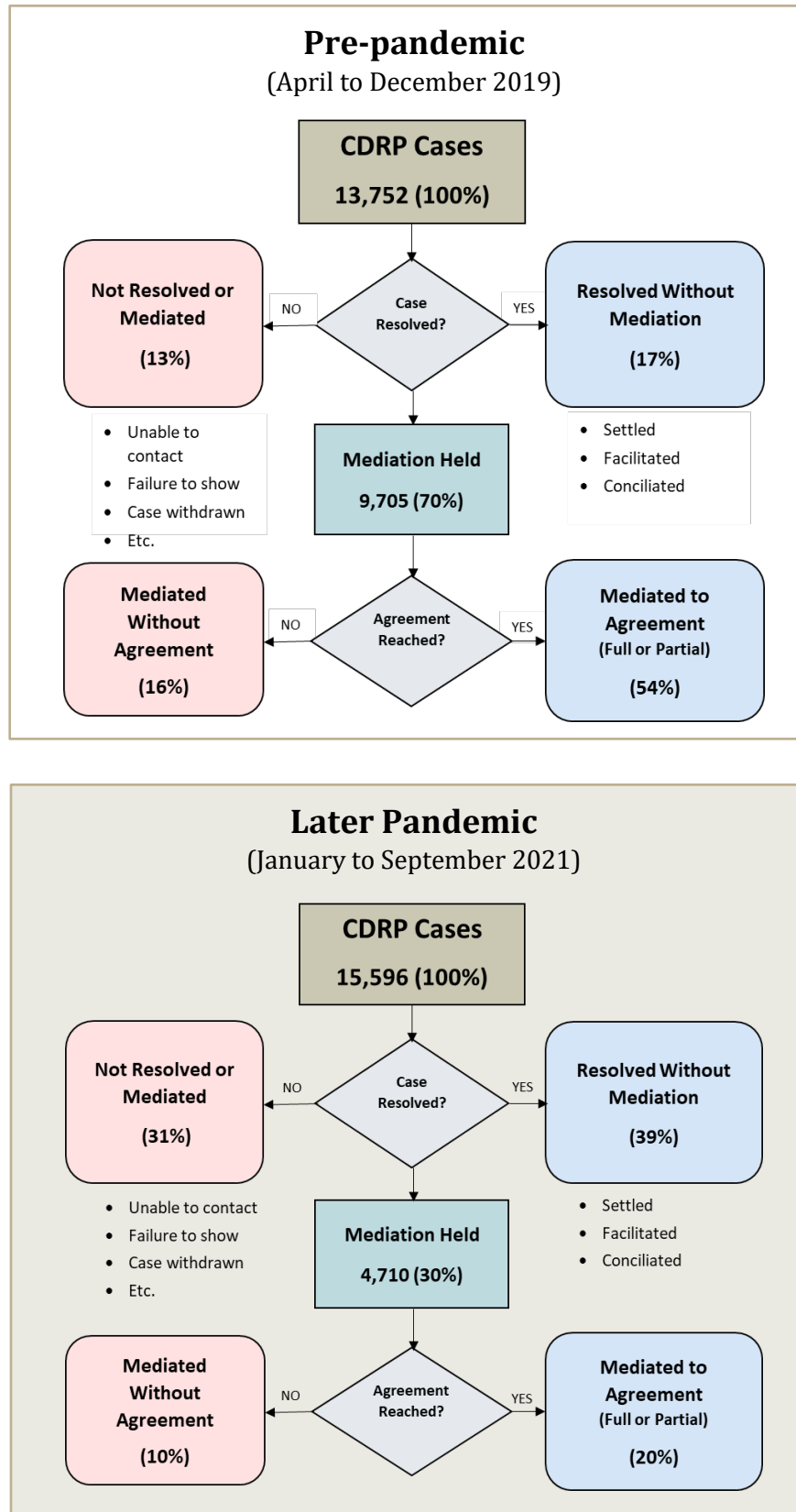
Table 4.3 Four disposition outcome categories

Disposition Outcome Categories for the Evaluation Study	
Resolved	Not Resolved
<p>Mediated to Agreement – A meeting of the parties with a mediator resolved one or more issues in a dispute and resulted in an agreement. (May be full or partial agreement)</p>	<p>Mediated without Agreement – A mediation that did not resolve the issues or produce an agreement</p>
<p>Resolved without a Mediation Session – Successful outcomes of efforts by CDRP center staff and volunteers to help parties resolve disputes or produce solutions to problems that did not involve conducting a mediation session:</p> <ul style="list-style-type: none"> • Conciliated - A process by which a conflict is resolved without formal mediation. This may include telephone resolution, informal office resolution, or any non-mediated contact which concludes with a written or verbal agreement. • Facilitated - Assisting a group of people to work together to make decisions, but which does not necessarily result in a written or verbal agreement. • Settled prior to mediation - A case that has been dismissed because the case was settled prior to the mediation being conducted but after it had been scheduled. 	<p>Not Mediated/Not Resolved – Cases that were closed by the CDRP centers that had not gone to mediation and had not otherwise been successfully resolved through efforts of the center staff and volunteers. Reasons for such closures included:</p> <ul style="list-style-type: none"> • Unable to contact • Unamenable for mediation • Respondent refuses to mediate • Initiator failed to show • Respondent failed to show • Both failed to show • Case withdrawn

Figure 4.1 shows the statewide distribution of outcomes during the Pre-pandemic period in 2019 and then in the Later Pandemic period in 2021. During the baseline period, when the centers provided almost all dispute resolution services face-to-face, mediation sessions were conducted for 70 percent of the referrals. Three-fourths of these sessions resulted in full or partial agreements so that overall 54 percent of the cases referred to the CDRP centers were successfully resolved through mediation sessions.

Another 17 percent of the referrals were resolved without a mediation session being conducted. Most of these disputes were settled and an agreement reached between the parties before a mediation session could be held. In 12 percent of the cases, mediation was not held, and the disputes were not resolved for a variety of reasons, including an inability to contact one or more of the parties, the case being withdrawn, and failure to show for the scheduled session.

Figure 4.1 Cases Disposed through Michigan's Community Dispute Resolution Program



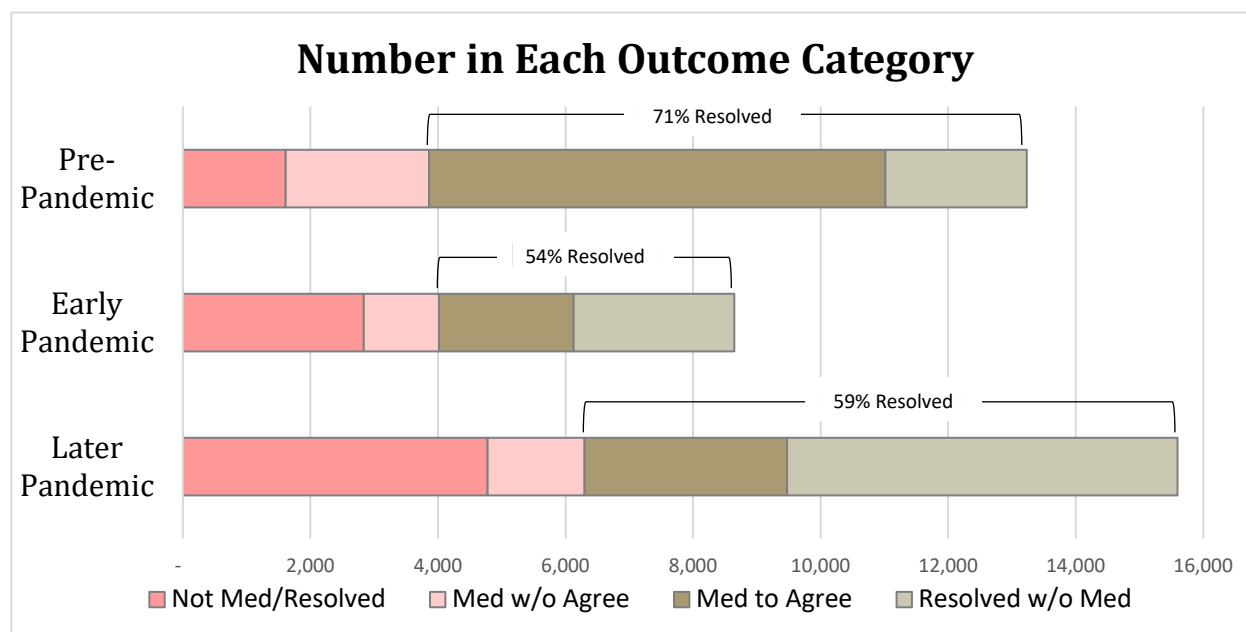
The proportion of statewide dispositions falling into each of the four outcome categories changed significantly in the Early Pandemic period with these changes continuing into the Later Pandemic period. As shown in **Table 4.4**, the percentage of cases in which a mediation session was held fell from 71 percent during the 2019 baseline period to 38 percent in 2020, and then to 30 percent in 2021. As a result, the percentage of disputes mediated to full or partial agreement dropped from 54 percent in the Pre-pandemic period to only 20 percent in the Later Pandemic period. This drop was due to the large increases in both the percentage of cases that were neither mediated nor resolved – going from 13 percent in 2019 to 31 percent in 2021 – and the percentage of cases that were resolved without a mediation session being held, which increased from 17 percent to 39 percent.

Table 4.4 Dispositions during three 9-month periods for all CDRP centers combined (percentages)

Type of Disposition	Pre-pandemic (Apr-Dec 2019) n = 13,235	Early Pandemic (Apr-Dec 2020) n = 8,644	Later Pandemic (Jan-Sep 2021) n = 15,596
Not Mediated/Not Resolved	12.2	32.8	30.6
Resolved without Mediation Session	16.8	29.1	39.2
Mediated without an Agreement	17.0	13.6	9.8
Mediated to Agreement	54.0	24.5	20.4

Figure 4.2, which displays the absolute numbers for each outcome category, demonstrates just how large the statewide changes were from the Pre-pandemic period to the Later Pandemic period. The number of disputes mediated to agreement fell from over 7,000 to around 3,000, even though the CDRP centers handled more cases in the latter period. Meanwhile, the number of cases reported as either facilitated, conciliated, or settled prior to mediation tripled from just over 2,000 to more than 6,000. The number of unresolved disputes also nearly tripled to almost 5,000 in the Later Pandemic period. More detailed analyses were performed to better understand the increases in these two outcome categories.

Figure 4.2 Dispositions during three 9-month periods for all CDRP centers combined



4.3.1 Reasons Disputes Were Not Mediated and Resolved by the CDRP Centers

Prior to the pandemic, when dispute resolution was conducted face-to-face, the CDRP centers reported a mix of reasons why the disputes referred to them were not mediated and resolved, with no single reason dominating the mix (see **Table 4.5**). However, during the pandemic when dispute resolution was virtual, “failure to show” became the predominant reason reported for closing a case as unresolved. During a focus group, one CDRP center director recalled disputants failed to appear early in the pandemic starting in April 2020 because they questioned the validity of the Zoom meeting invitation and the technology, and others thought the shutdown was temporary and they chose to wait for in-person mediation to resume. By the Later Pandemic period, “failure to show” was the reason that accounted for 60 percent of such case closures compared to just 24 percent in the Pre-pandemic period. Usually, it was the respondent in the case who failed to show. More than 80 percent of the no-show closures were due to respondents’ failure to show in each study period.

Table 4.5 Reasons disputes were not mediated/resolved during three 9-month periods for all CDRP centers combined (percentages)

Type of Disposition	Pre-pandemic (Apr-Dec 2019) n = 1,613	Early Pandemic (Apr-Dec 2020) n = 2,837	Later Pandemic (Jan-Sep 2021) n = 4,777
Failure to Show	24.4	44.0	59.6
Unable to Contact	22.4	23.2	16.3
Case Withdrawn	19.5	11.4	9.2
Unamenable for Mediation	17.8	11.8	9.0
Respondent Refuses to Mediate	15.9	9.6	5.9

Further analysis by type of dispute revealed that the spike in the number and percentage of cases closed due to a failure to show was the result of a large increase in the number of landlord/tenant disputes in the statewide caseload. These cases increased because the courts implemented an eviction diversion program (EDP) during the pandemic and referred many of the cases to the CDRP centers. Thus, landlord/tenant cases increased five-fold from 1,309 (10% of the statewide caseload) during the baseline period in 2019 to 7,085 (45%) in 2021. When disputes of this type are closed as unresolved by the centers, the reason reported most often is that at least one of the parties failed to show. The percentage of unresolved landlord/tenant disputes closed for failure to show increased from 65 percent in the Pre-pandemic period to 89 percent in the Later Pandemic period.

In comparison, failure to show was reported as the reason for closure in only 28 percent of all the other (non-landlord/tenant) cases that were closed without resolution in the Later Pandemic period. The other major reason reported in 30 percent of these cases was being unable to contact one or more of the parties – as compared to 4 percent of the landlord/tenant cases where this reason was reported. It appears, therefore, that the major statewide shifts in the reasons for not resolving cases was due more to the growth in the number of landlord/tenant cases during the pandemic than to the switch from in-person to virtual dispute resolution service by the centers.

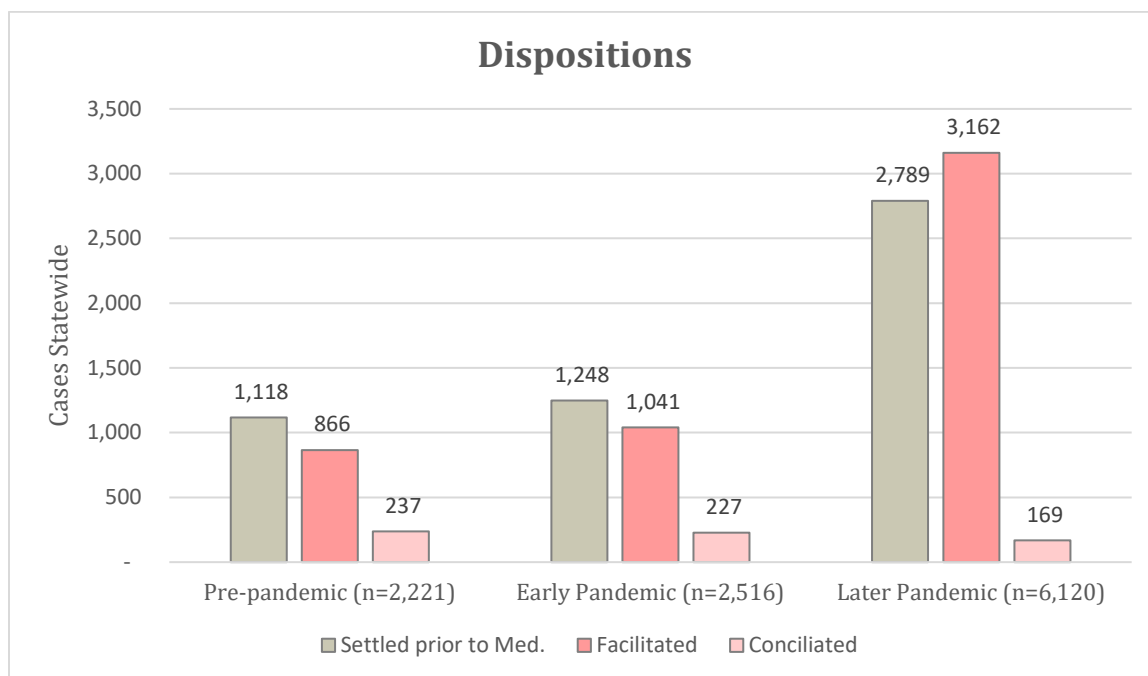
4.3.2 Non-mediated resolutions

In addition to providing formal mediation services to resolve disputes, CDRP center staff and volunteer mediators provide other forms of assistance to individuals and groups seeking to resolve differences or make mutual decisions. For cases that did not involve formal mediation sessions, there are three types of successful outcomes centers report in the MADTrac database: conciliated, facilitated, and settled prior to the scheduled mediation.

Collectively, these three types of resolution accounted for 17 percent of the statewide case dispositions in the Pre-pandemic period but had grown to constitute 39 percent of case closures in the Later Pandemic period.

Figure 4.3 shows the numeric increase in these types of closures between the two periods. The number of cases reported as facilitated more than tripled between 2019 and 2021 due mainly to the large increase in the number of landlord/tenant disputes and eviction cases handled by some of the centers. These types of cases accounted for 70 percent of the closures reported as facilitated in 2021 compared to just 1 percent 2019 when most (85%) of the facilitated resolutions were for school problems. Similarly, the more than doubling of the number of cases reported as settled prior to mediation was also due largely to the increase in landlord/tenant cases. Most of the cases reported as settled prior to mediation in 2021 (58%) were landlord/tenant cases; these cases had made up just 3 percent of the settled cases in 2019.

Figure 4.3 Types of non-mediated resolutions during three 9-month periods for all CDRP centers combined



Excluding the landlord/tenant cases from the statewide tallies of disputes resolved without a mediation session found practically no difference between the Pre-pandemic and Later Pandemic periods in the percentage of cases resolved by each method. Before-and-after percentages for non-landlord/tenant disputes were: settled 52% vs 52%; facilitated 41% vs 42%; conciliated 7% vs 6%.

4.4 Time to Disposition

The MADTrac case management system also tracks the time to disposition for disputes brought to the CDRP centers, defined as the number of days from when a center opens a case until the date it is closed, regardless of outcome. Statewide, the average days to disposition for all cases handled by the CDRP centers in the Pre-pandemic period was 16 days. This number doubled to 33 days during the Early Pandemic period when the centers and the courts were both adjusting to the provision of services remotely and grappling with other effects from the pandemic. By the Later Pandemic period in 2021, the average number of days to disposition for all cases combined had decreased to 23 days.

However, as shown in **Table 4.6**, there were differences in the degree of change by the type of disposition. Cases that were not mediated nor otherwise successfully resolved were closed more quickly on average in the Later Pandemic period than during the baseline Pre-pandemic period (25 days vs 32 days previously). This was because when they were unable to contact one of the parties or there was a failure to show to a scheduled session the centers did not continue to keep the cases open as long as they had before. The cases that were successfully resolved without a mediation session being conducted were also closed more quickly on average in the Later Pandemic period (17 days vs 22 days during the baseline period). This was due mainly to the large number of landlord/tenant cases in the statewide caseload in the later period that were facilitated in an average of 18 days.

Table 4.6 Average days to disposition by type of outcome during three 9-month periods for all CDRP centers combined

Type of Disposition	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Not Mediated/Not Resolved	32	33	25
Resolved without Mediation Session	22	33	17
Mediated without an Agreement	15	32	31
Mediated to Agreement	11	34	26
Average for All Outcomes	16	33	23

Although the CDRP centers combined mediated half the number of cases in the Later Pandemic period (4,697) than they had in the Pre-pandemic period (9,401), the time to disposition for these cases more than doubled in the later period. The average number of days a case was open increased from 15 days to 31 days for cases that were mediated without an agreement being reached; for those mediated to a full or partial agreement the increase was from 11 to 26 days on average. The major reason the mediation process took longer was that pre-pandemic large number of small claims cases and school cases were opened and closed all in the same day. The courts had a scheduled small claims day and a mediator and or mediators attended and provided mediations during that scheduled time. School mediations were also scheduled and held often the same day. During the pandemic, most courts were not holding small claims days in person, they were also held remotely. Centers changed how they handled these cases by receiving the court notices in advanced of the court day and reaching out to the parties to provide intake and schedule a mutually agreed upon date for mediation prior to the court hearing. Since this involved mailing letters inviting parties to mediate and awaiting their responses, this process took more time.

Table 4.7 presents the statewide averages for days to disposition by type of dispute for the three evaluation periods. For all types of disputes, cases were open longer in the Early Pandemic period when the centers and

courts were adjusting to the changes brought on by the pandemic than in the year before. By the Later Pandemic period, the average days to disposition had moved closer to the pre-pandemic levels for each type of dispute, but usually remained somewhat higher than before. Once schools reopened, those centers with contracts with their local districts resumed processing school problems on designated days as before and could once again resolve these cases within about 3 days.

Table 4.7 Average days to disposition by type of dispute during three 9-month periods for all CDRP centers combined

Types of Disputes	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Contract Breach	17	31	27
School Problems	3	16	3
Landlord/Tenant	9	22	18
Domestic Relations	25	48	32
Divorce	48	55	43
All Others	29	40	33

4.5 Summary of Trends in State-level Statistics

Data comparisons across the three study periods revealed the following state-level trends:

1	There was a precipitous drop in the number of disputes referred to and processed by the CDRP centers in the early months of the pandemic compared to the same period in the prior year. However, in the first nine months of 2021 the number of referrals had rebounded and now exceeded those made in the 9-month Pre-pandemic period.
2	Two major shifts occurred from 2019 to 2021 in the types of disputes referred to the centers. First, referrals from educational institutions, which had constituted more than a third of the referrals prior to the pandemic, were nearly nonexistent early in the pandemic due to school closures and were still only about 8 percent of referrals in 2021. Second, was the rapid growth in the number of cases involving landlord/tenant disputes, increasing from 10 percent of cases in 2019 to 45 percent in 2021.
3	These two shifts affected both the types of dispositions reported by the CDRP centers and the statewide average for days to disposition. Most landlord/tenant disputes in the Later Pandemic period were resolved positively without a mediation session, and another third of them were closed without being mediated or resolved by the centers. Because there were so many landlord/tenant cases, the state-level statistics showed a great increase in these two types of outcomes and a corresponding decrease in the percentage of all cases that were mediated to agreement. The large reduction in the number of school problem cases due to the pandemic caused the statewide average for days to disposition to increase since these types of cases are normally resolved much more quickly than other cases.
4	Perhaps the most striking trend in the statewide numbers was the reduction in use of mediation as a means of resolving disputes. Whereas mediation was held for 70 percent of the disputes referred to the centers before the pandemic, it was only used for 30 percent of the cases in the Later Pandemic period. Among cases where mediation was held, 68% were mediated to agreement using Zoom compared to 76% during the pre-pandemic period.
5	The net result of all these trends was that by 2021 just 20 percent of disputes referred to the CDRP centers were mediated to agreement, compared to 54 percent before the pandemic. In addition, because during the pandemic mediation sessions could not be scheduled and completed on the same day on hearings days at the courthouses, the days to disposition for these cases doubled adding two weeks on average to the time needed to achieve agreement.

These statewide data on disputes and dispositions show that when the courts made referrals to the CDRP centers during the pandemic they were much more likely to be asking for facilitation services than they had before. Volunteer mediators involved in EDP hearings were not necessarily focused on mediating a dispute, but more often on facilitating a meeting of the renter, landlord, and EDP partners (legal aid, housing authority, social service agencies) to create and coordinate a plan that prevents eviction and loss of income for the landlord. Consequently, the number of cases reported as facilitated increased greatly, as did the number of cases reported as settled prior to mediation since scheduling a Zoom session frequently prompted parties to develop their own plans.

As a result of the lack of demand for mediation services by the schools and the shift in focus to LLT/EDP cases by the courts, the number of cases being mediated during the Later Pandemic period was half of what it was before the pandemic. Nevertheless, two out of three of these cases were mediated to agreement using Zoom.

These state-level trends document the effects of the pandemic on the functioning of Michigan's Community Dispute Resolution Program as a whole, but don't show the ground-level differences among the CDRP centers in how they experienced and responded to the challenges of the pandemic and how they used VDR to meet these challenges. While the number of landlord/tenant disputes increased five-fold during the study period and greatly affected the statewide program statistics, these cases were concentrated in only a few areas of the state and most centers did not experience this change. Similarly, only some of the centers had large numbers of referrals from the schools prior to the pandemic, so the impact of school closures was much greater for these centers than for others. The effects of these center-level changes and how VDR was used to cope with them are the subject of the next chapter.



5. Using VDR to Cope with Caseload Changes Experienced by CDRP Centers

As concluded in the previous chapter, statewide statistics obscure the fact that during the COVID-19 pandemic some CDRP centers experienced very different changes than did others in the size and composition of their caseloads. Using center-level MADTrac data from across the three study periods the 17 centers were classified into one of three groups based on similarities in their caseload changes. Caseload and outcome data were analyzed separately for each group, and separate focus groups were conducted for the executive directors whose centers were in the same group. The combined results of the data analyses and focus group discussions are presented by group in this chapter. The presentation and discussion of results for each group provides a case study of how virtual dispute resolution (VDR) was used to address a particular set of changed circumstances during the pandemic.

5.1 How the Centers Were Grouped

The three groups were developed by comparing the centers' MADTrac caseload data from the Later Pandemic period in 2021 to their numbers during the baseline Pre-pandemic period in 2019 and looking for similarities in changes among centers. The primary grouping criteria were changes in caseload size and in types of disputes referred to the centers. A secondary grouping criterion was the change in the percentage of cases that were mediated to agreement.

Table 5.1 lists the CDRP centers in each group along with descriptive information and selected statistics for each center and for the three groups. The centers in the table are named according to the Michigan county in which each center is headquartered. The number of counties served by the centers ranges from 1 to 10. Whereas the centers in Oakland and Wayne counties just serve clients in those particular urban counties, other centers – such as those in Delta and Otsego counties – provide services to the many rural counties in their areas. Other CDRP centers are based in small- or medium-sized cities and serve citizens in their counties and a mix of nearby suburban or rural counties. The three groups identified through the analyses are as follows:




	Group 1	The six centers in this group saw their caseloads grow from 2019 to 2021 due to large increases in the number of landlord/tenant cases referred to them. At the same time, the percentage of cases mediated to agreement declined to very low levels for most centers in this group.
	Group 2	The five centers in this group had the highest percentage of cases that were school referrals in 2019 and experienced large decreases in caseload size through 2021 due to temporary school closings and the use of virtual teaching during the pandemic.
	Group 3	The six relatively small centers in this group collectively did not experience major changes in caseload size from 2019 to 2021 nor did they see more than minor shifts in the types of disputes referred to them for mediation. The decrease in the percentage of cases mediated to agreement was also smallest for this group.

Table 5.1 CDRP Centers Grouped by Changes from 2019 to 2021 in Caseload Size and Type of Disputes Addressed (9-month study periods)

Grp.	Centers	Type	No. of Co's	Caseload Size			Change from 2019		Mediated to Agree.			School Ref. 2019
				2019	2020	2021	2020	2021	2019	2020	2021	
1	Delta	Rural	10	250	237	266	-5%	7%	34%	26%	44%	0%
1	Jackson	Mixed	5	627	1150	2825	83%	351%	32%	16%	13%	4%
1	Marquette	Rural	2	226	252	294	12%	30%	51%	73%	46%	9%
1	Muskegon	Mixed	4	190	293	843	54%	344%	49%	7%	6%	13%
1	Oakland	Urban	1	1880	2233	3532	19%	88%	36%	14%	10%	0%
1	Wayne	Urban	1	1315	576	1785	-56%	36%	59%	27%	13%	23%
Group 1 Avg				748	790	1,591	6%	113%	43%	19%	13%	
2	Charlevoix	Rural	2	700	270	298	-61%	-57%	52%	30%	27%	37%
2	Ingham	Mixed	6	2680	687	1753	-74%	-35%	88%	30%	25%	74%
2	Kent	Mixed	7	994	420	639	-58%	-36%	69%	32%	51%	57%
2	Macomb	Mixed	6	1990	762	1031	-62%	-48%	36%	20%	24%	56%
2	Ottawa	Mixed	3	519	355	397	-32%	-24%	42%	36%	51%	24%
Group 2 Avg				1,377	499	824	-64%	-40%	63%	28%	31%	
3	Berrien	Mixed	6	363	244	494	-33%	36%	31%	32%	26%	0%
3	Chippewa	Rural	3	151	134	142	-11%	-6%	42%	51%	45%	0%
3	Genesee	Mixed	9	337	189	223	-44%	-34%	54%	40%	34%	2%
3	Grand Traverse	Mixed	6	202	133	160	-34%	-21%	30%	27%	31%	0%
3	Otsego	Rural	10	478	526	574	10%	20%	56%	32%	33%	0%
3	Washtenaw	Mixed	2	333	183	338	-45%	2%	52%	32%	37%	1%
Group 3 Avg				311	235	322	-24%	4%	46%	34%	33%	
Statewide				13,235	8,644	15,594	-35%	18%	54%	24%	20%	

Group 1 – Centers with a large increase in landlord/tenant cases from 2019 to 2021.

Group 2 – Centers with a large decrease in caseload size from 2019 due to a drop in referrals from schools.

Group 3 – Centers that did not experience major shifts caseload size or in types of disputes mediated from 2019 to 2021.



5.2 Group 1: Coping with Increased Demands to Resolve Housing Disputes

The onset of the COVID-19 pandemic in Michigan caused a significant increase in the number of renters who lost income, fell behind in their payments, and were threatened with eviction. This in turn created a huge spike in the number of landlord/tenant (LLT) and eviction cases filed with the courts at a time when many were limiting in-person interaction with the public or operating with reduced staff. The state responded by first declaring a statewide moratorium on evictions that temporarily halted residential evictions for missed rent payments, and then by establishing a new Eviction Diversion Program (EDP) using federal funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The program assists individuals and families who have fallen behind on rent due to the pandemic by providing rental assistance and other social and legal services when landlords try to recoup payments or evict them. The Michigan State Housing Development Authority (MSHDA) administers the EDP through local Housing Assessment and Resource Agencies (HARA's) and in collaboration with the local courts and Department of Health and Human Services.

The CDRP centers in Group 1 are the ones that assumed responsibility for handling the bulk of the LLT and EDP referrals in Michigan to help reduce the courts' backlogs. They actively participated in the Eviction Diversion Program using Zoom to facilitate and mediate cases referred to them by the courts. As a result, the portion of the Group 1 caseloads that were LLT disputes grew from 16 percent in 2019 to 68 percent in 2021; the numeric increase was from 730 cases to 6,533 cases, a nearly nine-fold increase. Mediators involved in these hearings most often were tasked with facilitating a meeting of the renter, landlord, and EDP partners (legal aid, housing authority, social service agencies) to create and coordinate a plan that prevents the renter from being evicted and assures the landlord at least some payment.

5.2.1 Referral Sources and Types of Disputes for Group 1

The effects of increased demands on Group 1 centers to focus on resolving housing disputes are reflected in the statistics from the MADTrac case management system. Prior to the pandemic, these centers already received most of their referrals from the courts, but by the Later Pandemic period, when the EDP was in full swing, 93 percent of referrals were from the courts (**Table 5.2**). The number of cases processed by the Group 1 centers as a whole not only failed to decline in the Early Pandemic period, as it had for most other centers, but had more than doubled by the Later Pandemic period. This growth was driven almost entirely by the increase in landlord/tenant (LLT) disputes sent to the centers by the courts.

Table 5.2 Referral sources during three 9-month periods for Group 1 Centers (percentages)

Referral Sources	Pre-pandemic (Apr-Dec 2019) n = 4,488	Early Pandemic (Apr-Dec 2020) n = 4,741	Later Pandemic (Jan-Sep 2021) n = 9,545
Courts	85.7	87.7	93.0
Schools	8.5	0.3	0.6
Self	2.8	7.2	4.9
Prosecutors	0.1	0.0	0.2
Legal Organizations	0.3	0.3	0.1
All Others	2.7	4.5	1.3

As shown in **Table 5.3**, the portion of the Group 1 caseloads that were LLT disputes grew from 16 percent in 2019 to 68 percent in 2021; the numeric increase was from 730 cases to 6,533 cases, a nearly nine-fold increase. In contrast, the number of other types of disputes addressed by these centers fell by 20 percent during this time from 3,757 cases to 3,012 cases.

In the Later Pandemic period, LLT cases comprised the following percentages of each Group 1 center's caseload: Jackson, 95%; Muskegon, 82%; Wayne, 68%; Delta, 55%; Oakland, 48%; and Marquette, 37%.

Table 5.3 Types of disputes addressed during three 9-month periods for Group 1 Centers (percentages)

Types of Disputes	Pre-pandemic (Apr-Dec 2019) n = 4,488	Early Pandemic (Apr-Dec 2020) n = 4,741	Later Pandemic (Jan-Sep 2021) n = 9,545
Contract Breach	34.0	24.9	14.6
School Problems	8.3	0.3	0.5
Landlord/Tenant	16.3	52.6	68.4
Domestic Matters	22.2	8.8	7.2
Divorce	7.7	7.4	4.8
All Others	11.5	6.0	4.4

5.2.2 Case Dispositions for Group 1

The new focus on LLT cases also affected case outcome statistics reported by the Group 1 centers. Prior to the pandemic, the centers collectively reported that 43 percent of cases had been mediated to a full or partial agreement, and that another 15 had been successfully resolved without a mediation session being conducted (**Table 5.4**). By the Later Pandemic period, these numbers had been flipped with just 13 percent of cases reported as mediated to agreement and 47 percent successfully resolved by another means, usually through virtually facilitated meetings. The overall result was that in both time periods about 60 percent of disputes handled by the Group 1 centers were successfully resolved, but just not by the same primary means.

Table 5.4 Dispositions during three 9-month periods for Group 1 (percentages)

Type of Disposition	Pre-pandemic (Apr-Dec 2019) n = 4,488	Early Pandemic (Apr-Dec 2020) n = 4,741	Later Pandemic (Jan-Sep 2021) n = 9,545
Not Mediated/Not Resolved	17.0	31.7	32.8
Resolved without Mediation Session	15.2	37.1	46.9
Mediated without an Agreement	24.4	11.7	7.2
Mediated to Agreement	43.4	19.4	13.1

Another change revealed by the data in **Table 5.4** is that in 2021 a third of the cases referred to the Group 1 centers were neither mediated nor resolved, about double the percentage from the Pre-pandemic period. The actual number of cases with this outcome grew from 761 to 3,126 over this time. The primary reason for this increase was the large number of LLT disputes in which one of the parties failed to show for a scheduled virtual meeting.

Finally, the data in this table show that whereas two-thirds of the disputes went to mediation before the pandemic, just 20 percent were mediated in the 2021 period when the focus was on LLT cases. Among those that went to mediation, there was no diminishment in success rate with 64 percent achieving agreement in each period.

Table 5.5 presents the changes in the average days to disposition for these outcomes as reported by the Group 1 centers over the three time periods. It shows that in centers that now have large LLT caseloads the cases that did not go to mediation closed an average of six days sooner in 2021 than in 2019. This was true regardless of whether the dispute was resolved. On the other hand, the average days to disposition increased for the 20 percent of disputes that were mediated: by 16 days for those in which an agreement was not achieved and by 11 days when there was an agreement.

Table 5.5 Average days to disposition by type of outcome during three 9-month periods for Group 1

Type of Disposition	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Not Mediated/Not Resolved	29	32	23
Resolved without Mediation Session	22	27	16
Mediated without an Agreement	10	26	26
Mediated to Agreement	14	24	25
Average for All Outcomes	17	28	20

Average days to disposition by type of dispute is displayed in **Table 5.6**. While all other types of disputes took an average of 22 to 30 days to dispose in the Later Pandemic period, the average LLT case was open just 17 days. Since LLT cases constituted 68 percent of the caseload for the Group 1 centers, the overall average for all cases was thereby reduced to 20 days during this period.

Table 5.6 Average days to disposition by type of dispute during three 9-month periods for Group 1

Types of Disputes	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Contract Breach	10	30	22
School Problems	4	4	26
Landlord/Tenant	11	23	17
Domestic Matters	19	41	29
Divorce	41	30	29
All Others	31	33	30

5.2.3 The Use of VDR to Cope with Changes Experienced by Group 1 Centers

Readiness

When their communities experienced a sharp rise in LLT disputes and potential evictions due to the pandemic in the spring of 2020, four of the Group 1 centers were poised to be of immediate assistance in addressing these issues through Zoom mediation. One urban county had already committed to providing services virtually as part of its initiative to increase access to dispute resolution services. It had piloted Zoom mediation with probate cases in 2018 and had already restructured its infrastructure and phone system to accommodate the provision of VDR services before the pandemic hit. When the stay-at-home order was issued, the center “flipped the switch” and all services became virtual the next day. This enabled the director to email the courts and other referral sources to let them know they could continue sending cases.

Another center in partnership with the courts, legal aid, and local housing, social, and community services organizations already had a nationally recognized eviction diversion program in place, and 60 percent of the disputes it handled just prior to the pandemic were LLT cases. Anticipating a potential shutdown, center staff were trained on Zoom in February 2020 and additional Zoom licenses were purchased. In-person mediation procedures were reconceptualized to accommodate virtual service delivery including changing workflows, scripts, and paperwork protocols. Early in the shutdown period, the center worked virtually with its local partners and referral sources to establish procedures for referring and processing disputes using Zoom. When the courts resumed activities after a two-month delay, the center was able to market its new virtual system as a means to handle the massive EDP backlog.

Two other centers also moved quickly and began using Zoom mediation in March 2020. Their strong relationships with the local courts helped ensure that they continued to receive referrals so that their centers could stay in business in the early part of the pandemic, although it meant a shift in the types of disputes handled most often. Prior to the pandemic, less than 5 percent of their caseloads consisted of LLT and eviction cases; by the Later Pandemic period these types of cases constituted 37 percent of the cases for one center and 82 percent for the other.

As a result of their readiness to transition to Zoom and their well-established relationships with the courts and other referral sources, these four centers were able to help address the sudden spike in the LLT and EDP cases. They saw their caseloads grow even during the Early Pandemic period when most other centers were experiencing declines. By the Later Pandemic period, total caseload sizes for two of the centers were more than three times what they had been pre-pandemic.

Two centers, one serving 10 rural counties and one serving a single urban county, did not begin using Zoom mediation for LLT and eviction cases until July 2020 when the courts resumed referring cases again. As a result, their caseloads shrank during the Early Pandemic period but rebounded after they began helping the courts address the backlog of LLT and EDP cases. By the Later Pandemic period most of the cases were of this type for the two centers.

Volunteers and Staffing

Most of these centers experienced a significant loss of volunteers as they switched to Zoom mediation. Often it was because volunteers tended to be retired individuals who were not comfortable using online technology, or they were long-time mediators whose perception was that mediation could not be conducted appropriately and effectively unless the parties met face-to-face. Consequently, the centers had to recruit and train new volunteers who were more tech savvy and comfortable using Zoom to conduct sessions. For example, one center recruited law students to volunteer as interns for school credit, many of whom continued to volunteer after completing their degrees. One urban center sought volunteers from among those in their community who had been displaced from their jobs by the pandemic. They found that because they used Zoom to train these volunteers how to mediate, they were quite comfortable using this method to conduct mediation. Other centers addressed the issue by assigning a tech savvy staff member or volunteer to host the Zoom sessions and administer the technical aspects – if necessary, training the disputants themselves how to use Zoom – which enabled the volunteers to just concentrate on mediating.

All centers reported increased strains and time demands on their directors and staff as they attempted to cope with the growing caseloads. This was particularly true early on when they had to conduct many of the mediation sessions themselves while recruiting and training replacement volunteers and configuring their services to be provided virtually.

Reworking the Service Delivery Model

The three largest centers in terms of staffing and LLT and EDP cases used the Zoom technology to completely change the way they processed these types of cases so that they could meet the greater demands placed on them by the courts. As one executive director stated, they moved from a model “in which a single mediator handled all aspects of a case from A to Z” – that is, from intake to mediation to agreement – to “an assembly line model” in which these responsibilities are handled sequentially by different staff and volunteers.

The pre-trial EDP cases were particularly amenable to being processed this way via Zoom. In these cases, all parties are read the same court-required scripts detailing rights and responsibilities, which by using Zoom can be read to parties from multiple cases all at the same time. Utilizing the Zoom breakout room feature, parties in each individual case can then be screened by a center staff member to determine the type of assistance needed and then linked via Zoom to the appropriate resources. For instance, parties that have already reached an agreement and are ready to settle can skip mediation and be directed to someone to help them draw up and sign an agreement electronically. Others may be linked to a mediator to negotiate unresolved differences, while others may be placed in meetings with representatives from the center and its partner organizations, such as the housing authority or legal aid, to discuss the resources and options available to the parties for avoiding eviction. One center reported using two hosts to keep 25 Zoom breakout rooms open simultaneously, which enabled it to conduct three pretrial cases every 15 minutes. The other two large centers also reported handling LLT and pre-trial EDP cases much more quickly under their revamped virtual systems – e.g., “10 minutes max for a landlord/tenant case [instead of] an hour per case.”

Based on the courts' positive reactions to how well VDR is working for LLT cases, the director of the CDRP centers is already exploring the possibility of replicating this approach for other types of court cases and sees this as an example of a best practice that can be adopted by other community mediation centers.

Smaller Centers

The directors of the three Group 1 centers with smaller LLT and EDP caseloads all reported that they sought to take on more of these cases due to the drop in referrals for the types of cases they most often mediated before the pandemic. In the Pre-pandemic period of this study, only 5 percent of the cases served by these centers were LLT cases. The centers had to shift from mostly mediating contract and domestic disputes between two parties to facilitating sessions that also involved other partner agencies such as the housing authority and legal aid. One director noted that this requires a different skillset in the mediators.

None of the directors reported reworking their service delivery systems to create the assembly line-type processes that the larger centers adopted for these cases. This was probably because they did not have the volume of cases that would necessitate such a change, nor the numbers of staff and volunteers needed to make such a system work effectively. Consequently, none reported huge drops in the time needed to resolve a case. LLT cases, said one director, "can take hours of calls, negotiation, and paperwork." Nevertheless, these centers demonstrated that even with a more traditional mediation model they could use Zoom to persevere in the face of difficulties presented by the pandemic and actually grow their caseload sizes.

Post-pandemic Intentions for VDR Use

All six of the Group 1 CDRP center directors are committed to using Zoom as a means of resolving disputes going forward. All intend to use a hybrid model in which the centers provide their services both virtually and in person. Two of the centers will promote Zoom sessions as the proffered option with face-to-face mediation and facilitation only used as needed. The other four directors want to implement a hybrid model in which both in-person and virtual options are offered with the disputants and mediators deciding on a case-by-case basis which option is best.



5.3 Group 2: Coping with Decreased Referrals from Schools

Prior to the pandemic, the five CDRP centers in Group 2 had long-established contracts with school districts that paid the centers for the services of facilitators with advanced training and experience in restorative practices, a group process in which stakeholders (teachers, students, and the community) collectively identify and propose solutions to issues such as bullying or classroom expectations, and build skills and capacity to prevent, reduce, or repair harm. These individuals also handled referrals related to truancy, school attendance mediation, and school employee friction. In addition, the centers also had contracts to provide services for special education matters (individualized education programs with up to 15 people involved at a time) handled by CDRP special education coordinators.

When the schools closed in 2020, the centers reached out to them offering to provide restorative practices services online for school matters. They also requested that the schools continue paying according to their contracts so as to retain the highly skilled and trained mediators/facilitators who had established relationships with the school, students, teachers, and families, and to ensure continuity once schools reopened. However, in many cases, the schools decided to discontinue these services and suspend payments until schools re-opened.

5.3.1 Referral Sources and Types of Disputes for Group 2

Case management system data for Group 2 show that in the months just prior to the pandemic the centers responded to a total of 6,883 referrals for dispute resolution services with 4,040 of them (59%) coming from schools (**Table 5.7**).⁶ During the Early Pandemic period when students could not attend in-person classes, the centers received fewer than 200 school referrals and the total number of referrals dropped 64 percent to around 2,500. The bulk of the referrals (85%) then came from the courts. With the reopening of classrooms in 2021 and the reactivation of school contracts with some centers, the number of school referrals increased to 1,367 and constituted one-third of the centers' caseload in the Later Pandemic period. The overall number of referrals, however, was still 40 percent below the pre-pandemic level.

⁶ The percentage of the caseload comprised of school referrals by center in the Pre-pandemic period appear in the last column of **Table 5.1**

Table 5.7 Referral sources during three 9-month periods for Group 2 Centers (percentages)

Referral Sources	Pre-pandemic (Apr-Dec 2019) n = 6,883	Early Pandemic (Apr-Dec 2020) n = 2,494	Later Pandemic (Jan-Sep 2021) n = 4,118
Courts	37.2	85.0	61.6
Schools	58.7	7.9	33.2
Self	2.1	2.6	1.6
Prosecutors	0.4	0.7	0.1
Legal Organizations	0.7	1.2	1.0
All Others	0.9	2.6	2.5

The types of disputes addressed by the Group 2 centers during the three periods directly reflected the changes in the number of school referrals (**Table 5.8**). In the absence of school referrals, contract disputes became the predominant type of issue resolved during the pandemic periods along with a mix of other disputes. The overall number of non-school disputes did not change from the Pre-pandemic period to the Later Pandemic period. There were about 2,900 cases in each period. Unlike for the Group 1 centers, there was only a modest increase in the number of landlord/tenant disputes, which rose from 296 cases in 2019 to 377 in 2021 for all Group 2 centers combined.

Table 5.8 Types of disputes addressed during three 9-month periods for Group 2 Centers (percentages)

Types of Disputes	Pre-pandemic (Apr-Dec 2019) n = 6,883	Early Pandemic (Apr-Dec 2020) n = 2,494	Later Pandemic (Jan-Sep 2021) n = 4,118
Contract Breach	21.1	45.9	34.8
School Problems	58.6	7.8	30.3
Landlord/Tenant	4.3	8.4	9.2
Domestic Matters	3.7	10.2	6.3
Divorce	5.6	13.0	7.7
All Others	6.8	14.7	11.9

5.3.2 Case Dispositions for Group 2

In the Pre-pandemic period when most referrals were for school-related problems, three-quarters of disputes referred to the Group 2 centers were mediated, and 86 percent of those mediated were resolved to agreement. The successfully mediated cases therefore comprised 63 percent of all cases (**Table 5.9**). By the Later Pandemic period when only a third of the cases were school referrals, just 43 percent of all cases were mediated with 73 percent of those being mediated to agreement. This effectively reduced the number of successfully mediated cases to just 31 percent of the caseload – about half of what it was before the pandemic. However, during this time the percentage of cases successfully resolved without mediation had risen from 18 percent to 30 percent; therefore, the centers still successfully resolved the majority (61%) of their cases, although not at the level they had prior to the pandemic (81%).

Table 5.9 Dispositions during three 9-month periods for Group 2 (percentages)

Type of Disposition	Pre-pandemic (Apr-Dec 2019) n = 6,883	Early Pandemic (Apr-Dec 2020) n = 2,494	Later Pandemic (Jan-Sep 2021) n = 4,118
Not Mediated/Not Resolved	8.3	37.2	26.6
Resolved without Mediation Session	18.0	18.8	30.4
Mediated without an Agreement	10.6	15.5	11.6
Mediated to Agreement	63.2	28.5	31.4

For school-related disputes, a comparison of pre-pandemic dispositions to those in the Later Pandemic period found that in both periods the Group 2 centers were highly successful in achieving positive outcomes. Before the pandemic this group of centers reached resolutions in 98 percent of the school cases they received: 79 percent mediated to agreement and 19 percent resolved without mediation. In 2021, they also had a 98 percent successful resolution rate, but this time the reported outcomes were 42 percent mediated to agreement and 56 percent resolved without mediation. The shift in the percentages in the type of positive outcome reported was due mainly to one center, which had about half of the school cases in 2021, now reporting most resolved cases as having been facilitated rather than as mediated to agreement as it had reported in 2019. Part of the reason for this was that the center was facilitating more group sessions to address school employee friction issues and help the schools retain staff during the pandemic.

Regarding length of time to disposition, **Table 5.10** shows that in 2021 the centers had reestablished the high level of efficiency in processing and resolving school-related problems that they had displayed before the pandemic. On average these cases took two to three days to resolve. Average days to disposition for contract and divorce cases in 2021 were about six days longer than before but were a few days shorter for domestic and other cases. Only landlord/tenant cases took considerably longer to resolve in 2021.

Table 5.10 Average days to disposition by type of dispute during three 9-month periods for Group 2

Types of Disputes	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Contract Breach	21	29	27
School Problems	3	15	2
Landlord/Tenant	5	13	29
Domestic Matters	38	36	35
Divorce	60	86	66
All Others	32	46	29

Table 5.11 shows that for all cases and outcomes combined the average days to disposition nearly tripled for the Group 2 centers in the Early Pandemic period, going from 13 to 37 days, as the centers, courts, and schools grappled with the initial effects of the pandemic. The 23-day average in the Later Pandemic period reflects the recovery of the service delivery system from these problems. It would have been even shorter if a greater portion of the caseload was composed of quickly resolved school-related disputes.

Table 5.11 Average days to disposition by type of outcome during three 9-month periods for Group 2

Type of Disposition	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Not Mediated/Not Resolved	34	32	30
Resolved without Mediation Session	21	49	16
Mediated without an Agreement	19	39	35
Mediated to Agreement	7	33	21
Average for All Outcomes	13	37	23

5.3.3 The Use of VDR to Cope with Changes Experienced by Group 2 Centers

Readiness and Flexibility

None of the five Group 2 centers had used Zoom to resolve disputes prior to the statewide stay-at-home order in March, although one had previously used Skype for cases in which parties were out of state. Three of the centers adapted quickly and began using Zoom in March and April after obtaining additional licenses, equipment, and training. The other two did not begin using Zoom until June when service demands increased – one center having scheduled sessions “way out” in the hope that the effects of the pandemic would be short-lived and in-person mediation could resume. Most of the centers did not have staff or volunteers who were already proficient in using videoconferencing technology, and one director noted it took six months to develop internal experts who could troubleshoot and help others with Zoom mediation.

Two of the centers demonstrated flexibility in how they delivered virtual services to the schools, using skills learned in Zoom training to sometimes conduct sessions via the schools’ own platforms. One center was given access to Google Schools, while another used Microsoft Teams or “whatever the school was already using” to deliver services.

Staffing and Volunteers

The centers lost many of their “seasonal” staff – those specially trained individuals employed under school contracts to facilitate restorative practices sessions – when schools ceased in-person operations in Spring 2020. Some centers had to lay off these individuals, while others were able to retain at least some by using federal PPP funds or by convincing a school system to continue paying them so that they would be available in the fall. Even then, the demand for their services, as reflected in the MADTrac statistics, did not really increase until Spring 2021.

Although they lost some volunteer mediators who could not adapt to using Zoom mediation for court-referred cases, these centers managed to retain the bulk of their volunteer force and trained them to use Zoom. In addition to recruiting some new volunteers, one center convinced volunteers who were usually not available for part of each year while wintering in the South to continue providing services from there via Zoom.

Changes in the Service Delivery Model

These CDRP centers did not make major changes in their service delivery models, nor for the most part did they aggressively market their Zoom capabilities to increase referrals as some Group 1 centers did. Most centers instituted a model in which center staff performed most of the technical and administrative functions of the Zoom sessions so volunteers and school contract staff could concentrate on interacting with participants. Several of the executive directors noted that virtual delivery of mediation and facilitation services required more staff time than when done in-person.

They also said that the nature of the issues addressed through restorative practices changed somewhat during the pandemic as they received more requests to help teachers, school administrators, and staff work through the problems and stresses associated with keeping the schools functioning in the face of the pandemic. School systems saw these Zoom sessions as a key element in their attempts to reduce stress and conflict and help them retain teachers and staff.

One center worked with the courts to implement a new model in which a court sends the entire docket of small claims cases to the center so that Zoom mediation can be attempted prior to the parties' scheduled court appearance on Small Claims Day. The director described how a volunteer mediator could "fire up their computer in their home office or kitchen and rock out 10 small claims agreements in a morning." This reduced the number of cases in which the parties had to appear at the courthouse to such an extent that small claims hearings were scheduled for every other week instead of weekly. This greatly pleased the judges and court personnel and helped the center build much stronger relationships with the courts.

The directors at two other centers described how much the courts influenced their caseload sizes when school referrals dropped. In one instance, because the center had quickly converted to Zoom and already had a great relationship with the court, the court was able to continue and even increase the number of referrals, which helped to partially offset the loss of school referrals. The other center experienced a big drop in its general civil caseload when one judge retired and the new one didn't make referrals.

Post-pandemic Intentions for VDR Use

For school referrals, these centers are inclined to reinstitute in-person mediation and facilitation services using paid contract staff when the schools reopen fully. Some already did in Fall 2021. For court and other referrals, all centers propose to institute a hybrid model in which both in-person and Zoom VDR are offered. One center director wants to make Zoom VDR the first option for these types of cases, while two others lean toward in-person as the first option to be offered.



5.4 Group 3: Trying to Meet Usual Demands in New Ways

Overall, the six centers in Group 3 did not have to cope with the extreme changes in caseload size and composition that centers in the other groups experienced.⁷ Unlike for Group 1 centers, there was not a large increase in caseloads due to the Eviction Diversion Program and other increases in landlord/tenant disputes. Because they had no large school contracts, they did not experience the immediate and lasting reductions in caseload size that came from school closures and remote learning during the pandemic. Although the combined caseload size for Group 3 centers fell by 24 percent in the first year of the pandemic, it had risen to 6 percent above the pre-pandemic level by 2021.

As documented below, the Group 3 centers during the pandemic largely continued to rely on the same referral sources and to receive the same types of disputes as they had before the pandemic. The challenge for these centers was how to meet the usual demands for dispute resolution services during a pandemic by means of VDR.

REFERRAL SOURCES & TYPES OF DISPUTES FOR GROUP 3

For all three periods examined in this study, the courts provided more than 80 percent of the referrals to the Group 3 centers (**Table 5.12**). Self-referrals, the second largest source, never accounted for more than 8 percent of referrals. Referrals from educational institutions totaled less than 1 percent in each period.

Table 5.12 Referral sources during three 9-month periods for Group 3 Centers (percentages)

Referral Sources	Pre-pandemic (Apr-Dec 2019) n = 1,864	Early Pandemic (Apr-Dec 2020) n = 1,409	Later Pandemic (Jan-Sep 2021) n = 1,933
Courts	84.4	81.7	83.4
Schools	0.5	0.2	0.6
Self	6.5	7.5	7.7
Prosecutors	3.8	5.4	3.8
Legal Organizations	2.3	2.4	2.5
All Others	2.5	2.8	2.0

⁷ See **Table 4.1** for statistics on caseload sizes and changes across the three study periods.

Table 5.13 shows that across all periods breach of contract was the most common type of dispute handled by the Group 3 centers. Domestic and divorce disputes combined to account for around 30 percent of the caseloads in the Pre-pandemic and Later Pandemic periods. Compared to the other groups of centers, this group had a higher percentage of cases that were labeled as All Others in this study. These included a variety of disputes related to conflicts with neighbors, guardianship, property and real estate, victim restitution, child protection, and employment issues.

Table 5.13 Types of disputes addressed during three 9-month periods for Group 3 Centers (percentages)

Types of Disputes	Pre-pandemic (Apr-Dec 2019) n = 1,864	Early Pandemic (Apr-Dec 2020) n = 1,409	Later Pandemic (Jan-Sep 2021) n = 1,933
Contract Breach	35.1	37.0	42.2
School Problems	1.0	0.4	0.8
Landlord/Tenant	14.5	10.4	9.1
Domestic Matters	18.1	22.1	19.3
Divorce	10.7	13.8	11.1
All Others	20.7	16.1	17.6

At the center level, there was not much change in the types of disputes each center handled before and during the pandemic. Berrien, for example, mainly processed contract disputes before the pandemic and handled even more by the Later Pandemic period, as well as increasing the number of divorce cases handled. For Chippewa and Washtenaw, nearly half of their cases in all study periods were in the All Others category with most of the rest being contract disputes. Over half of the caseload for Grand Traverse before the pandemic consisted of divorce and domestic cases, which increased to about two-thirds of the caseload during the Later Pandemic period. Otsego had a wide variety of cases both before and during the pandemic. Only Genesee moved from a center that had quite a mix of cases prior to the pandemic to one in which nearly half the cases were domestic matters.

5.4.1 Case Dispositions for Group 3

Collectively, the Group 3 centers mediated about two-thirds of their cases (69%) before the pandemic and around half (51%) in the Later Pandemic period. In both periods, two out of three of these cases were mediated to full or partial agreement. The result was that the percentage of cases mediated to agreement fell from 46 percent to 33 percent over this time (**Table 5.14**). This was a smaller reduction than was experienced by the Group 1 and Group 2 centers. In 2021 the percentage of referrals that were not mediated or resolved (29%) was nearly double the rate in 2019 (15%) due to an increase in the number of the cases in which one or more of the parties could not be contacted.

Table 5.14 Dispositions during three 9-month periods for Group 3 (percentages)

Type of Disposition	Pre-pandemic (Apr-Dec 2019) n = 1,864	Early Pandemic (Apr-Dec 2020) n = 1,409	Later Pandemic (Jan-Sep 2021) n = 1,933
Not Mediated/Not Resolved	15.1	28.7	28.8
Resolved without Mediation Session	16.1	20.2	20.0
Mediated without an Agreement	22.7	16.7	18.5
Mediated to Agreement	46.0	34.4	32.6

As with the other groups, the average days to disposition for all cases served by the Group 3 centers increased greatly during the Early Pandemic period before falling in the Later Pandemic period. For all cases combined, the average time to disposition increased by 11 days from 2019 to 2021 (**Table 5.15**). Cases that were mediated to agreement took about two weeks longer than before.

Table 5.15 Average days to disposition by type of outcome during three 9-month periods Group 3

Type of Disposition	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Not Mediated/Not Resolved	38	38	32
Resolved without Mediation Session	27	43	40
Mediated without an Agreement	23	35	35
Mediated to Agreement	21	54	38
Average for All Outcomes	25	44	36

Table 5.16 shows that the average days to disposition for divorce and domestic cases in 2021 were about the same as they had been in 2019 before the pandemic. For all other types of disputes there was an increase of from 10 to 18 days.

Table 5.16 Average days to disposition by type of dispute during three 9-month periods for Group 3

Types of Disputes	Pre-pandemic (Apr-Dec 2019)	Early Pandemic (Apr-Dec 2020)	Later Pandemic (Jan-Sep 2021)
Contract Breach	25	38	36
School Problems	12	72	22
Landlord/Tenant	8	17	21
Domestic Matters	32	66	36
Divorce	40	47	40
All Others	24	41	42

5.4.2 The Use of VDR to Cope with Changes Experienced by Group 3 Centers

Readiness

Five of the six CDRP centers in Group 3 had not used Zoom prior to the statewide shutdown. One center serving many rural counties had begun using Zoom in 2019 and adapted quickly. This center had long used telephone conference calls to provide dispute resolution services in cases where distance from the courthouse and the hazards of winter travel were often barriers for those seeking remedies through the courts. The center now used Zoom for these cases, when the parties had the necessary equipment and internet access, which also made reviewing and exchanging documents and obtaining signatures easier than before.

Access to the courts was limited for extended periods in many of the areas served by these centers – with some courts not beginning to refer cases again until September 2020. This gave centers time to purchase needed equipment and Zoom licenses, train staff and volunteers, and practice conducting mediation and facilitation virtually. It also enabled them to be proactive in seeking referrals when the courts and other referral sources resumed operations. Four of the center directors described how they reached out to the courts and marketed their Zoom VDR capabilities, and how in one instance, when rural judges refused to consider using VDR, one center had successfully marketed it to local prosecutors to keep referrals coming in.

These experiences reinforce a finding from earlier that having strong positive relationships with judges and court administrators increased centers' readiness to work with courts in transitioning to the use of Zoom VDR.

Staffing and Volunteers

As with the other groups, the Group 3 centers all lost volunteers to various degrees when they transitioned to Zoom VDR. The reasons they left were generally the same as in the other groups: difficulties in using the technology and a reluctance to provide services when they could not meet with the parties face-to-face. These centers therefore focused on recruiting and training new volunteers who would be comfortable using Zoom technology to provide mediation. One center director described how staff provided one-on-one support in using Zoom VDR to their current volunteers in an effort to retain them, while others discussed how they and their staff had to pitch in to help mediate cases while replacement volunteers were being located and trained. At least one center found some volunteers who lived outside the area but could still mediate cases effectively via Zoom.

The center directors also described how a lack of volunteers increased the workload and stress levels for staff, particularly early in the pandemic when they were also adjusting to the use of Zoom, and that a few staff members were lost due to this. Some said they used federal PPP funds to retain staff when referrals dropped initially.

Changes in the Service Delivery Model

Because these centers had small-to-medium sized caseloads both before and after the pandemic hit, they continued using a service delivery model in which volunteers were responsible for mediating or facilitating individual cases from beginning to end. A key difference was that in most centers more staff resources were needed to support volunteers with the technical and administrative aspects of Zoom VDR.

Through active marketing of their Zoom capabilities – and due to changes in the demand for some services, such as an increased number of divorce and domestic relations cases – centers sometimes found that they were dealing with a greater variety of cases than before, some of which required a different approach to service delivery. For instance, several noted that they were doing more group facilitations, such as the center that worked with prosecutors to get more victim offender and juvenile offender cases and another that got more landlord/tenant cases. Two centers worked with the courts to streamline the small claims process using Zoom, which helped the courts reduce backlogs while boosting referrals to the centers.

Post-pandemic Intentions for VDR Use

All centers intend to use a hybrid model that offers both Zoom and in-person sessions. For three of them, Zoom is the preferred option to be offered first with in-person used as needed. The others prefer that the parties be given the option to decide on a case-by-case basis.

6. Stakeholders' Assessments of the Two VDR Services

In the focus group sessions, CDRP center executive directors and mediators were asked to give their opinions about the effectiveness of Zoom dispute resolution and MI-Resolve for resolving disputes, as well as describe the advantages and limitations of using each. The subsequent stakeholder survey presented the same types of questions to a variety of individuals identified by center directors as knowledgeable about their centers' use of these two forms of virtual dispute resolution (VDR). The following sections present the combined results from the stakeholder survey and focus groups.

6.1 How Survey Respondents Were Grouped for Analysis

The stakeholders surveyed included judges, court administrators, attorneys, other referral sources, CDRP center board members, and remaining named mediators who were unable to participate in the scheduled focus groups. In some instances, the survey respondents both referred cases and also served as mediators and/or center board members.

For purpose of analysis, survey respondents were divided into two groups based on whether they were affiliated with a CDRP center, either as a mediator or board member (Center Group), or whether they were someone who made referrals for mediation services from the courts or other organizations or as an attorney (Referral Group). Individuals who said they were CDRP center mediators and/or board members but who also made referrals, were counted in the Center Group category as it was reasoned that they were probably more familiar with how Zoom dispute resolution was provided by the centers than those from other referral sources and probably incorporated that perspective in their answers. Twenty-eight respondents were placed in the Center Group category and nineteen in the Referral Group category.



Access	Effectiveness
Satisfaction	Recommendations



6.2 Assessment of Zoom Mediation

ACCESS

Do you feel that the center's use of Zoom Mediation has increased or decreased the public's access to mediation services?

In the survey, a substantial majority in both groups agreed that the use of Zoom mediation had increased the public's access to mediation services by reducing barriers that prevent the use of in-person mediation. Overall, 75 percent of respondents said this was the case (Center Group 79%; Referral Group 68%). Only one respondent to the survey said there was a decrease in access due to barriers that prevent some people from using Zoom mediation. Most of the others said they had observed no net change in access.

In the focus group discussions, center directors and mediators frequently brought up ways in which the use of Zoom had increased the public's access to mediation. The most frequently cited ways were:

- Simplifies logistics for clients and mediators who no longer must arrange extended time off from work, arrange childcare, find parking, and travel excess miles or drive in adverse weather conditions.
- Simplifies scheduling for clients and mediators due to reduction in travel time.
- Reduces costs for clients, centers, and mediators due to reduction in travel costs and insurance.
- Reduces client anxiety and produces fewer confrontations thus creating opportunities for more focused discussion and healthier conversations.

A few participants from the focus groups said that Zoom mediation presented barriers to access and cited these examples:

- Limited access due to equipment and internet service. The most difficult situations were clients who only had phones and couldn't navigate Zoom fully, especially breakout rooms.
- Some participants lacked comfort and/or experience with technology creating challenges in terms of their ability to share documents or present paper receipts or images.

EFFECTIVENESS

Overall, how effective is Zoom Mediation as a means for resolving disputes as compared to in-person mediation?

The majority of both groups in the survey said that Zoom mediation was either just as effective as or more effective than in-person mediation. Over 80 percent of the Center Group responded this way as did nearly 60 percent of those from the Referral Group. Around 15 percent of each group said it was less effective than in-person mediation.

Overall, how effective is Zoom Mediation as a means for resolving disputes as compared to in-person mediation?	Respondent Category				Total	
	Center		Referral		N	%
	N	%	N	%	N	%
More effective	3	10.7%	4	21.1%	7	14.9%
Just as effective	20	71.4%	7	36.8%	27	57.4%
Less effective	4	14.3%	3	15.8%	7	14.9%
Not sure or no opinion	1	3.6%	5	26.3%	6	12.8%
Total	28	100.0%	19	100.0%	47	100.0%

Stakeholders were then asked to identify the types of cases in which they thought Zoom mediation was either more effective or less effective than in-person mediation.

Are there any types of disputes for which Zoom Mediation may be more effective than in-person mediation for reaching agreement?

Eighty-six percent of respondents affiliated with the centers said that Zoom mediation may be more effective than in-person mediation for some types of disputes. About half of those in the Referral Group (47%) said Zoom mediation could be more effective in some circumstances with an equal number saying they were not sure or had no basis on which to form an opinion. When asked to specify the types of disputes in which Zoom may be more effective, there were 52 responses with some individuals citing more than one type of dispute. Their responses fell into the following groups:

Disputes where there is intimidation or a power imbalance (14 responses). Those who gave this response most often cited domestic disputes (child custody, divorce, parenting time, etc.) in which there is a perceived power imbalance in the relationship, or one party is not comfortable in same room with the other party.⁸ They also included instances where “there is a combative relationship,” “there is intimidation by one of the parties,” and “one party exerts a greater

⁸ All domestic relations and family division cases or any in which the parties have an on-going relationship are screened for domestic violence, using the State Court Administrative Office’s **Domestic Violence Screening Protocol for Mediators of Domestic Relations Conflicts**. After screening, if cases have been deemed appropriate for mediation, the case can continue into mediation. If red flags or indications of domestic violence are detected in screening, the case is returned to court as unamenable for mediation.

degree of control” over the other. One respondent stated, “Zoom equalizes any physical or psychological threat or intimidation that may exist for in-person mediations.”

Simple, unrepresented cases (13 responses). These are cases in which the parties are not represented by attorneys, the case is not complex, and there are few exhibits or documents to share. Small claims cases were the most frequent examples given.

Disputes where there are barriers to meeting face to face (11 responses). These respondents said Zoom is more effective at getting people into mediation when the parties live far apart, there are disabilities that restrict travel, participation time is limited by work or childcare obligations, etc. Probate and guardianship cases were offered as examples.

Specific types of disputes (10 responses). Some respondents noted the types of disputes that they thought Zoom mediation was better at resolving: child custody (3), divorce (2), business disputes (2), special education (2), and eviction diversion (1) because there were many parties in this type of dispute, and it was easier to schedule via Zoom.

Other (4 responses). These included disputes in which it would be helpful to have a third-party advocate or expert involved (3), or where the parties have good technical skills (1).

In the focus groups, directors (5) said school referrals such as truancy cases worked well via Zoom because the school systems already were using online access for teaching and the centers were able to resolve disputes over Zoom using restorative practices and still reach a high agreement rate. Other directors (6) reported domestic relations cases worked well in Zoom, especially with the ability to utilize virtual breakout rooms and work with each person privately in caucus and come back together once they have common ground to negotiate an agreement.

Are there any types of disputes for which Zoom Mediation may be less effective than in-person mediation for reaching agreement?

A minority of survey respondents in each group said that there are some types of disputes for which in-person mediation may be more effective than Zoom mediation, and they then provided 29 responses specifying the types of disputes and their concerns with Zoom mediation generally.

Complex and multiparty disputes (4 responses). Three respondents felt that in-person mediation was more effective for cases in which there are many exhibits, documents, and complex contracts, noting that they find it more difficult to review multiple documents when using Zoom. One said sessions with multiple parties (more than 2) were more effective in-person citing probate as an example.

Specific types of disputes (8 responses). There was no consensus among respondents on the specific types of disputes that are more effectively resolved using in-person mediation. These types were cited two times each: domestic relations cases, probate, and special education. Behavior health and Peace Circles were each mentioned one time.

In focus groups, directors (3) and mediators (4) said Zoom was not as effective for larger cases that take more than 90 minutes. Examples such as probate cases, contested wills, and multiple parties’ domestic relations cases often took more than 90 minutes, and mediators found it difficult to keep participants attention for these extended periods on Zoom.

Most respondents to this survey question used the opportunity to note specific problems or issues they had with using Zoom to conduct mediation. These included:

Confidentiality and safety (6 responses). As one respondent stated about Zoom mediation, “there’s no guarantee who’s in the room” with the participant and it’s a concern “in terms of confidentiality and possibly safety.” There was also concern that unseen persons could be influencing one of the parties during the session.

Problems in developing and maintaining rapport (7 responses). Some mediators found it more difficult to develop mediator/participant rapport when using Zoom and said it was sometimes harder to keep the parties’ attention. These individuals valued the intimacy of in-person mediation. As one of them stated, “People need to not only talk but also be able to do it looking each other in the eye, and the mediator has to have the ability to read body language throughout the process.” Two of them felt that all mediations needed to be conducted face to face.

Technical issues (3 responses). The problems they noted with Zoom included dropped connections, Zoom being challenging for the elderly and hard of hearing (Zoom does have closed caption feature under settings in accessibility), and when technology isn’t “equalized,” e.g., where one party can see a screen share and the other cannot.

SATISFACTION

Compared to users of in-person mediation, are users of Zoom Mediation generally as satisfied with this means of resolving their disputes?

Around a third of each survey group did not express an opinion on this question. Among those who did make the comparison, three-quarters of the respondents felt that users of Zoom mediation were just as satisfied with this service as those who had participated in in-person mediation, and another 23 percent thought users were more satisfied using Zoom. Only one respondent said Zoom users were less satisfied.

How satisfied are you (or your organization) with the use of Zoom Mediation by your local center?

Respondents affiliated with the centers and those in the referral group showed the same level of positivity toward the use of Zoom mediation. Overall, everyone who provided an opinion expressed satisfaction with this form of VDR with more than half saying they were “very satisfied.” No one expressed any degree of dissatisfaction.

How satisfied are you (or your organization) with the use of Zoom Mediation by your local center?	Respondent Category					
	Center		Referral		Total	
	N	%	N	%	N	%
Very satisfied	15	53.6%	11	57.9%	26	55.3%
Satisfied	11	39.3%	6	31.6%	17	36.2%
Somewhat Satisfied	2	7.1%	1	5.3%	3	6.4%
Not sure or no opinion	0	0.0%	1	5.3%	1	2.1%
Total	28	100.0%	19	100.0%	47	100.0%

Mediators in focus groups (6) mentioned that some of the mediators left because they didn't want to transition to Zoom, but said the excellent training offered by the centers and their peers helped to retain others who came to embrace Zoom.

RECOMMENDATIONS FOR POST-PANDEMIC USE OF ZOOM

Once it is safe to resume in-person mediation for all disputes, how do you recommend that Zoom Mediation be used by your local center?

The most frequent response to this survey question (45%) was that, once it is safe to resume in-person mediation for all disputes, CDRP centers should promote in-person and Zoom mediation equally as a mediation option and let the parties in each dispute decide which one to use. The remainder of the respondents were nearly equally split on whether to routinely attempt to use either Zoom, or in-person mediation as the primary means of dispute resolution before offering the other option. There were no differences between the Center Group and the Referral Group in their responses to this question.

Once it is safe to resume in-person mediation for all disputes, how do you recommend that Zoom Mediation be used by your local center?	Respondent Category					
	Center		Referral		Total	
	N	%	N	%	N	%
Attempt to use Zoom Mediation as the primary means of mediation with in-person mediation used as needed	8	28.6%	6	31.6%	14	29.8%
Attempt to use in-person mediation as the primary means of mediation with Zoom Mediation used as needed	7	25.0%	5	26.3%	12	25.5%
Should promote each option equally and let the parties in each dispute decide whether to use in-person or Zoom Mediation	13	46.4%	8	42.1%	21	44.7%
Discontinue the use of Zoom Mediation	0	0.0%	0	0.0%	0	0.0%
Not sure or no opinion	0	0.0%	0	0.0%	0	0.0%
Total	28	100.0%	19	100.0%	47	100.0%

More than half of the CDRP center directors said in focus groups that they want to give people a menu of options going forward with Zoom listed first, then the remainder of options including in-person dispute resolution and MI-Resolve based on the cost, relative effectiveness, and convenience. They felt strongly that mediation is supposed to be a voluntary event in a more relaxed atmosphere, so making parties as comfortable as possible without a hardship requires flexibility and options for participants.

6.3 Assessment of MI-Resolve

A total of 34 survey respondents – two-thirds of the study sample – said they were familiar with how MI-Resolve is being used to resolve disputes through their local CDRP center and answered questions regarding this VDR service: 23 were from the Center Group (mediators and board members) and 11 were from the Referral Group (courts and other referral sources). Despite being familiar with this service, most respondents gave the answer “not sure or no opinion” when asked specific questions about how well it was functioning.

EFFECTIVENESS

Overall, how effective is MI-Resolve as a means for resolving disputes?

Of the 10 Center Group respondents who expressed an opinion, 6 said MI-Resolve is at least somewhat effective (2 of them said very effective), and 4 found it to be less than effective (1 said very ineffective). In contrast, all 8 of the respondents in Referral Group who rated its effectiveness said MI-Resolve is effective with 7 saying it is very effective. Directors (6) said the court forms being built into MI-Resolve makes it convenient if both parties are willing to opt-in to save time on mailing forms and signatures.

Are there any types of disputes for which MI-Resolve is particularly effective?

A quarter of the survey respondents said that MI-Resolve is particularly effective for some types of disputes and provided the following examples:

- Small claims (4)
- Creditor-debtor/debt collection (4)
- One response each:
 - Scheduling delivery/completion of paid-for services
 - General civic
 - Neighborhood
 - Landlord/tenant
 - Parenting time
 - Domestic relations

One respondent said MI-Resolve is most effective in disputes “where the intent to resolve is already there between the parties.” Another commented that “this method tends to eliminate (or at least decrease) emotional communications and allows the mediator to buffer communications and encourage compromises of the dollars-and-cents debate to reach a speedier resolution of the dispute.”

In a focus group, one director said “MI-Resolve can be much faster to complete mediation - in the time it typically takes to schedule a mediation, a MI-Resolve case would already be completed.”

Are there any types of disputes for which MI-Resolve should probably not be used?

Five of the survey respondents in the Center Group said there are some types of disputes for which MI-Resolve should probably not be used and provided these comments:

- Anything besides simple general/civil matters (3)
- Domestic disputes or any family related issues (2)

SATISFACTION

To your knowledge, how satisfied are users with MI-Resolve as a means for resolving their disputes?

On the survey, only 4 of the 22 Center Group respondents provided a rating of users' satisfaction with MI-Resolve, and all said the users were satisfied. The 8 members of the Referral Group who provided a rating said users were satisfied (2) or very satisfied (6)

RECOMMENDATIONS FOR FUTURE USE OF MI-RESOLVE

Going forward, how do you recommend that MI-Resolve be used by your local CDRP center?

For both groups, about 30 percent of the survey respondents did not make a recommendation for how their local center should use MI-Resolve going forward. Half of the 16 Center Group members who made a recommendation said the centers should promote the use of MI-Resolve only for certain types of disputes, but not for others, and one recommended discontinuing its use.

Of the 8 respondents in the Referral Group, 6 recommended promoting MI-Resolve equally with in-person and Zoom mediation and let the parties in each dispute decide which one to use; the other 2 said centers should attempt to get parties to use MI-Resolve first and then offer other mediation services if the dispute is not resolved.

Do you have anything to add about MI-Resolve that was not addressed above?

Seven of the survey respondents provided additional comments in response to this question.

Four of them took this opportunity to explain why they were not able to provide an opinion on many of the questions about MI-Resolve saying, for example, that they were familiar with the service and may even have been trained on it but had not personally used it with clients. Three of them added that they were supportive of the concept of MI-Resolve and saw its potential.

Three respondents were volunteer mediators or board members. Two of these mediators said they had difficulty adapting to using MI-Resolve and the third board member/mediator commented, "The challenge is education of the public on MI-Resolve as an option for resolution. There is a lack of trust in the system already even though there are professional staff persons and judges/magistrates involved."

In focus groups with mediators and directors, the following observations were made about MI-Resolve:

- ✓ MI-Resolve requires a different type of volunteer mediator, one that is tech savvy and comfortable with asynchronous electronic communications.
- ✓ The biggest obstacle is the inability to invite and engage with the second party on a case if the first party filing the case doesn't have the second party's correct contact information.
- ✓ Traditional mediators don't see MI-Resolve as mediation since it is done through email asynchronously and without visual or even audio contact. Some mediators and directors suggested that a complimentary Zoom component be added so that everyone can connect at least once to form an agreement. This feature is currently being developed by SCAO ODR.
- ✓ There was a collective anticipation of what MI-Resolve will be like once multi-party functionality becomes more familiar and more training provided to allow for different types of cases. The consensus was that something this new will take time to fully develop.
- ✓ Many courts reported to directors that they were marketing MI-Resolve to clients to engage them in dispute resolution and get them thinking about negotiation, which helps them to be better prepared even if they cannot agree and go to trial.



7. Summary of Findings

Michigan's 17 Community Dispute Resolution Program (CDRP) centers promptly ceased in-person operations when stay-at-home orders were issued in March 2020 in response to the COVID-19 pandemic. For the next year and a half, the only way the centers could continue providing needed dispute resolution services was by using Zoom videoconferencing or MI-Resolve, the two types of virtual dispute resolution (VDR) services examined in this study. Neither had been used by more than a few centers prior to the pandemic, and then not very often. This study sought to discover how the centers adapted to using these forms of VDR during the pandemic and whether there were differences in case outcomes when services were delivered virtually rather than in-person.

Both types of VDR were available statewide during the pandemic, but while all CDRP centers used Zoom extensively to provide mediation and facilitation services, MI-Resolve was used sparingly except by a couple of centers. Therefore, findings are presented separately for each type of VDR with changes in caseload statistics and outcomes discussed in the section on Zoom dispute resolution.

Zoom Dispute Resolution



The study examined three nine-month periods: a baseline *Pre-pandemic* period (April-December 2019) when dispute resolution services were provided face-to-face; an *Early Pandemic* period (April-December 2020)

when the centers were retooling their operations in response to the pandemic and services were delivered via Zoom; and a *Later Pandemic* period (January-September 2021) when the centers were still using Zoom almost exclusively and had adjusted their operations accordingly.

CASELOAD CHANGES ACROSS THE THREE STUDY PERIODS

Referrals




- The statewide number of disputes referred to and disposed by the CDRP centers across Michigan declined by 37 percent during the Early Pandemic period compared to the baseline period, falling from 13,752 to 8,644 cases. The primary cause was school closures in response to the pandemic.
 - Prior to the pandemic over a third of all referrals (35%) came from schools, but they accounted for just 3 percent of referrals early in the pandemic and only 9 percent in the later period when schools were fitfully beginning to resume in-person classes.
 - By the Later Pandemic period, the statewide number of referrals had rebounded to 15,595 cases, which was 13 percent higher than in the baseline period. The vast majority of referrals (85%) during the two pandemic periods were from the courts.
- These findings indicate that by using Zoom VDR the centers were able to keep pace with referrals from the courts, the schools, and other referral sources throughout the pandemic. In fact, without switching to Zoom the centers would not have been able to function and meet increased demands from the courts for mediation and facilitation services, except perhaps for a few types of person-to-person disputes that could have been addressed using MI-Resolve.

<p><i>Types of Disputes</i></p>	<ul style="list-style-type: none"> • In addition to the precipitous drop in the number of school cases handled by the CDRP centers during the pandemic, the other major change was a surge in landlord/tenant (LLT) cases referred to the centers from the courts once an administrative order was issued by the State Court Administrative Office designating centers’ mediators as individuals who can conduct pre-trial hearings for Eviction Diversion Program (EDP) cases. <ul style="list-style-type: none"> ○ During the baseline period there were 1,296 LLT cases, which accounted for around 10 percent of the total caseload, but by the Later Pandemic period the 7,085 LLT and EDP cases constituted 45 percent of the statewide cases. ○ Other frequent types of disputes – contract breach, domestic matters, and divorce – showed no major changes or obvious trends in state-level data examined over the three 9-month periods.
<p><i>Dispositions</i></p>	<ul style="list-style-type: none"> • A comparison of disposition outcomes for cases in the baseline Pre-pandemic period to those in the Later Pandemic period revealed several major changes: <ul style="list-style-type: none"> ○ The number of cases closed as having been facilitated to a successful conclusion more than tripled between the two periods (from 866 to 3,162 cases). This was due mainly to the large increase in LLT/EDP cases because facilitation, rather than mediation, was the service provided most often for these cases; also, when the centers did provide services to the schools during the pandemic, in most instances it was in response to a request for group facilitation or restorative practices rather than for mediation of an individual dispute. ○ Twice as many cases settled prior to mediation in the Later Pandemic period (1,118 vs 2,789 cases). This was also due to the increase in LLT/EDP cases since the bulk of the settlements reported were for these types of cases. ○ The number of cases that were classified in this study as not mediated/not resolved tripled between the Pre-pandemic and Later Pandemic periods (from 1,613 to 4,777 cases). Once again, this was because of the increase in LLT/EDP cases in which most failures to resolve were due to one of the parties not showing up for the Zoom session. ○ In the Later Pandemic period, the number of cases that were mediated was about half of what it had been prior to the pandemic (9,705 vs 4,710). The main reason for this was that there were about 3,000 fewer requests for mediations from the schools (an 84% decrease). ○ In both periods when mediation was held, the majority of cases were mediated to a full or partial agreement; the rate of successful mediations was a little lower in the Later Pandemic period (67%) than in the Pre-pandemic period (75%). • These statewide data on disputes and dispositions show that when the courts and the schools made referrals to the CDRP centers during the pandemic they were much more likely to be asking for facilitation services than they had before. <ul style="list-style-type: none"> ○ Volunteer mediators involved in EDP hearings were not necessarily focused on mediating a dispute, but more often on facilitating a meeting of the renter, landlord, and EDP partners (legal aid, housing authority, social service agencies) to create and coordinate a plan that prevents eviction and loss of income for the landlord. Consequently, the number of cases reported as facilitated increased greatly, as did the number of cases reported as settled prior to mediation since scheduling a Zoom session frequently prompted parties to develop their own plans. ○ Likewise, with students not in the classrooms, schools were less likely to need mediation services and more likely to ask for facilitation services to resolve group issues, including how to reduce stress on teachers and staff providing remote learning. • As a result of the lack of demand for mediation services by the schools and the shift in focus to LLT/EDP cases by the courts, the number of cases being mediated during the Later Pandemic period was half of what it was before the pandemic. Nevertheless, two out of three of these cases were mediated to agreement using Zoom, and a large majority of mediators and stakeholders who were

	surveyed said Zoom mediation was either just as effective or more effective for resolving disputes as in-person mediation.
Time to Disposition	<ul style="list-style-type: none"> For all cases in the state, the average number of days from when a CDRP center opened a case until it was closed doubled from 16 days during the Pre-pandemic period to 33 days in the Early Pandemic period when the centers and their referral sources were still working out the logistics for referring and resolving cases via Zoom. By the Later Pandemic the average the time to disposition had decreased to 23 days. For cases that were not mediated and not successfully resolved, and for those that were resolved without mediation, the average time to disposition was about a week less in the Later Pandemic period than before the pandemic. However, cases that were mediated took about two weeks longer to close than before. This was because, due to the pandemic, CDRP mediators were no longer in the courthouses on hearing days to offer mediation as an alternative and instead had to mail letters inviting parties to mediate and await their responses.

THREE GROUPS OF CENTERS

The 17 CDRP centers were not affected equally by these changes in caseload size and types of disputes referred to them. To study how Zoom VDR was used to respond to the challenges faced, the centers were divided into three groups based on shared changes in their caseloads from the Pre-pandemic period (2019) to the Later Pandemic period (2021).

	 Group 1 Landlord/Tenant	 Group 2 School Contracts	 Group 3 Usual Referrals
<i>Number of centers</i>	6	5	6
<i>Caseload change</i>	Increased 113%	Decreased 40%	Increased 4%
<i>Reason</i>	More LLT and EDP cases	Decrease in school referrals	Consistent referrals

Group 1 – Landlord / Tenant	<p>Group 1 centers actively participated in the Eviction Diversion Program using Zoom to facilitate and mediate cases referred to them by the courts. As a result:</p> <ul style="list-style-type: none"> The portion of the Group 1 caseloads that were LLT disputes grew from 16 percent in 2019 to 68 percent in 2021; the numeric increase was from 730 cases to 6,533 cases, a nearly nine-fold increase. Four of the centers in Group 1 were already using Zoom on a limited basis or adapted immediately when the stay-at-home order was issued. The two other centers in Group 1 were delayed in starting Zoom use, but quickly adapted. This enabled them to market their services to the courts or respond when asked to help with EDP cases. All centers in Group 1 had strong relationship with the courts and most already had relationships with the partners needed to work EDP cases (housing authority, social services, legal aid, etc.). <p>The three larger centers in Group 1 moved from a pre-pandemic model in which each volunteer mediator worked a case “from A to Z” to an “assembly line” model for EDP pre-trial cases. These three larger centers used the Zoom breakout room feature to host up to 25 EDP pre-trial cases simultaneously, quickly assessing parties' needs and moving them to the breakout room with the appropriate resources. This enabled the three larger centers to resolve cases much more quickly under their revamped virtual</p>
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	<p>systems, conducting three pretrial cases every 15 minutes instead of taking an hour per case as was needed when it was face-to-face.</p> <p>The three smaller centers in Group 1 did not have the volume of cases, or the number of personnel needed to switch to this model, but still coped with their increased caseloads using Zoom. Because most cases were facilitated, these three smaller centers provided mediation services less often than they had before the pandemic, yet their rate of successful case resolution (60%) was the same as before.</p>
Group 2 – School Contracts	<p>Prior to the pandemic, the centers in Group 2 had long-established contracts with school districts to provide mediation for individual disputes and to facilitate in-classroom restorative circles. The percentage of the pre-pandemic caseload that were school cases ranged from 74% to 24% for the five Group 2 centers. When school case referrals dropped to nearly nothing in Spring 2020 due to school closures, the centers lost many staff funded under these contracts.</p> <ul style="list-style-type: none"> • Most schools conducted classes remotely in the 2020-2021 school year and referrals for mediation continued to be low. • Most requests from the schools at that time were for group facilitations using Zoom, including sessions with teachers, school administrators, and staff to ease pandemic-related stresses and strains. <p>None of the Group 2 centers had used Zoom prior to the shutdown. One center quickly adapted to using Zoom for all cases, while others were slower to adapt in the belief that the pandemic would soon be over and they could return to in-person services. Group 2 center staff sometimes used skills learned in Zoom training to conduct sessions for schools using the schools’ own platforms (e.g., MS Teams or Google School).</p> <p>The Group 2 centers did not make large changes in service delivery, nor did they aggressively market their Zoom capabilities to increase referrals, as some Group 1 centers did.</p> <p>In the first nine months of 2021 the number of referrals from all sources combined was 40 percent below the pre-pandemic level. The percentage of cases resolved successfully for Group 2 was 61 percent, which was below the 81 percent pre-pandemic level.</p>
Group 3 – Usual Referrals	<p>The centers in Group 3 did not have to cope with the extreme changes in caseload size and composition that centers in the other groups experienced. During the pandemic, Group 3 centers largely continued to rely on receiving the same:</p> <ul style="list-style-type: none"> • referral sources which are primarily from the courts • types of disputes as they had before the pandemic <p>The challenge for the Group 3 centers was how to meet the usual demands for dispute resolution services during a pandemic by means of Zoom. Referrals dropped 24 percent during the Early Pandemic period when courts in many of their areas were closed for extended periods, but by the Later Pandemic period the number of referrals was 4 percent above the pre-pandemic level.</p> <p>Five of the six Group 3 centers had not used Zoom VDR prior to the shutdown. The court closures to in-person services gave these centers time to train staff and volunteers, practice mediating via Zoom, and purchase needed equipment and licenses.</p> <p>One Group 3 center serving many rural counties had begun using Zoom in 2019 in lieu of teleconferencing and was able to transition to virtual dispute resolution immediately.</p> <p>All Group 3 centers were proactive in marketing their new VDR capabilities to judges and other referral sources – some helped train local partners in Zoom use. Two Group 3 centers worked with the courts to streamline the small claims process using Zoom.</p> <p>The Group 3 centers generally instituted a delivery model in which center staff performed most of the technical and administrative functions so volunteers could just mediate or facilitate via Zoom. In the Later</p>

Pandemic period the percentage of cases resolved successfully was 53 percent, which was below the 62 percent pre-pandemic level.

COMMON LESSONS FROM THE GROUPS

By grouping the CDRP centers and looking at each group separately, the study was able to examine how Zoom VDR was deployed under differing circumstances, such as when caseloads increased, decreased, or remained the same. It identified both group-specific challenges and solutions and those that were common to all centers. The common lessons learned from across all groups include the following:

<p><i>Readiness</i></p>	<p>Centers in all groups that were already moving in the direction of using virtual dispute resolution were able to pivot more quickly than the others when the pandemic hit and to fully embrace Zoom as a means of delivering services.</p> <ul style="list-style-type: none"> • These centers experienced shorter shutdown periods and were soon able to market their new VDR capabilities as the solution to problems faced by the courts, their other referral sources, and potential new referral sources. • The executive directors of these centers were pleased with what they had accomplished under difficult circumstances by using Zoom and were enthusiastically looking for more and new ways to incorporate VDR into their centers. <p>Centers that already had close, cooperative working relationships with the courts and other organizations in their communities found it easier to convince them to continue – or to begin – sending cases for mediation and facilitation via Zoom throughout the pandemic. In some instances, it allowed centers to diversify their clientele and receive referrals from new sources to offset losses incurred when their traditional sources couldn't or wouldn't use VDR.</p>
<p><i>Volunteers</i></p>	<p>Volunteer mediators are the life blood of the CDRP centers.</p> <ul style="list-style-type: none"> • All centers lost some longtime volunteers who did not have the technical skills to use Zoom and were not interested in acquiring them, sometimes assuming that Zoom use would go away as soon as the pandemic ended. • Other volunteers were of the opinion that the only proper way to conduct mediation is face-to-face, and that in using Zoom they would not be able to establish good rapport, read subtle body language and verbal cues, or remain in control of the session. • Still other volunteers left because the nature of the work had changed due to the increased demand for facilitation services during the pandemic. For these reasons, Zoom VDR was not a good personal fit many longtime volunteers. <p>Centers used an array of strategies to successfully retain volunteers. These included:</p> <ul style="list-style-type: none"> • individualized Zoom training, • providing computer equipment so they could volunteer from home, and • having center staff perform the technical and administrative functions of the Zoom sessions so they could “just mediate.” <p>All centers had to recruit some new volunteers, and they usually focused on bringing in more tech savvy individuals who would already be comfortable with Zoom and could be trained more easily to mediate and facilitate this way. The centers found that using VDR actually increased the size of their potential volunteer pool, and they could successfully recruit new ones from among groups of displaced workers, college students, and others who would not normally volunteer.</p>

	Several centers set up student intern programs, not just to find mediators but to also to bring in volunteers who could support the technical aspect of using VDR.
<i>Staffing</i>	<p>Staff retention and burnout, particularly in the early part of the pandemic when centers were switching to Zoom, was an issue for all centers. Centers that had at least one staff member or volunteer onboard who already had good Zoom skills transitioned more smoothly. Some centers lost staff due to funding cuts and others left for the same reasons that caused volunteers to leave. Remaining staff were often under stress, which center directors tried to relieve through creative scheduling, hiring new staff with technical skills, training volunteers to both mediate and work the Zoom functions, and instituting forced breaks to alleviate Zoom fatigue.</p> <p>Although most center directors reported that staffing issues and stresses had lessened by the Later Pandemic period when the centers had worked out most of the kinks in their new Zoom VDR processes, the common lesson is that for the virtual system to work often requires substantial changes in staff roles and responsibilities and in the amount of support provided to them.</p>
<i>Service model adjustments</i>	<p>Even with Zoom, most centers continue to use a dispute resolution model in which a volunteer mediator or facilitator is responsible resolving each assigned case from beginning to end. However, the assembly line-type processes developed by the larger Group 2 centers to address pretrial eviction cases demonstrates the flexibility that Zoom VDR provides for creating new service models. Some centers in each group also built on its flexibility in working with courts to streamline and speed up the resolution of common cases such as small claims by adjusting the referral, intake, and scheduling processes that Zoom accommodated.</p>
<i>Effectiveness</i>	<p>In the Later Pandemic period, each group of centers used Zoom to achieve positive resolutions for the majority of the cases referred to them. Cases were counted as successfully resolved if they were mediated to agreement, facilitated, conciliated, or settled prior to the scheduled session.</p> <p>The successful case resolution rates for each group were:</p> <ul style="list-style-type: none"> • Group 1 centers was 60% which about the same as before Zoom was introduced. • Group 2 centers was 61% and Group 3 centers was 53% which were lower than before Zoom was used. <p>For each group, the successful case resolution rate might have been higher except that during the pandemic there were substantial increases in the number of cases closed because parties could not be contacted or one of them failed to show for a scheduled session. It is unclear how much this had to do with the use of Zoom and how much was due to other factors affecting the centers' service delivery during the pandemic.</p>
<i>Post-pandemic Intentions</i>	<p>All CDRP center directors are committed to using Zoom as a means of resolving disputes going forward. All intend to use a hybrid model in which the centers provide their services both virtually and in-person. In the focus groups, the directors were about equally split on whether parties seeking dispute resolution services should be offered a Zoom option first with face-to-face mediation and facilitation only used as needed, or if both in-person and virtual options should be offered up front with the parties and mediators deciding on a case-by-case basis which option to use. Directors in two of the centers with school contracts were leaning toward offering in-person services as the first option, particularly for school referrals.</p>

REACTIONS TO THE USE OF ZOOM VDR

Focus groups with CDRP center executive directors and mediators and a survey of stakeholders (judges, court administrators, center board members, attorneys, and other referral sources) addressed these four topics regarding Zoom VDR.

<i>Access to Dispute Resolution Services</i>	<p>A large majority of all groups said that Zoom increases access by reducing these barriers to service:</p> <ul style="list-style-type: none"> • Work schedule conflicts and the need for childcare • Travel requirements, parking, and other expenses associated with in-person meetings (both for disputants and mediators) • Restrictions in access associated with disability, age, etc. • Zoom sessions are often easier to schedule than in-person
<i>Effectiveness of Zoom VDR</i>	<ul style="list-style-type: none"> • Over 80 percent of center personnel and 60 percent of referral sources surveyed said Zoom sessions are just as effective or more effective than in-person session for resolving disputes • 15 percent of each group found it less effective • Zoom was seen to be more effective than in-person for these types of cases: <ul style="list-style-type: none"> ○ Simple cases, such as small claims, when parties don't have attorneys ○ Disputes in which there is a power imbalance, or one party feels intimidated, with domestic relations cases most frequently cited as examples ○ Disputes in which there are barriers to participation (distance, disability, etc.)
<i>Satisfaction with Zoom VDR</i>	<ul style="list-style-type: none"> • About 90 percent of referral sources and center personnel surveyed were satisfied the CDRP centers' use of Zoom VDR (55% "Very Satisfied") • Nearly all said that the parties served via Zoom were just as satisfied with the services as those served in-person prior to the pandemic
<i>Limitations with Zoom VDR</i>	<p>These were the limitations cited most frequently by a minority of respondents:</p> <ul style="list-style-type: none"> • Zoom VDR requires the parties to have internet access and the right equipment to participate, as well as sufficient technical ability, which are barriers to access for some populations • Some mediators found it difficult handle complex, multiparty cases with lots of documents via Zoom • Confidentiality and safety were concerns if it wasn't known who else was in the room with one of the parties during a Zoom session • Some mediators had difficulty developing rapport with, and maintaining the attention of, disputants via Zoom

MI-Resolve

UTILIZATION OF MI-RESOLVE

MI-Resolve

MI-Resolve became active in all 17 CDRP centers in July 2020. All but five centers reported having resolved disputes virtually through the system by January 2021. In focus groups conducted with center executive directors in the summer of 2021, about half reported that they had received 0-10 MI-Resolve cases while the others reported numbers in the 50-300+ range. Those who had used it said the following factors helped the centers successfully incorporate MI-Resolve:

- ✓ Ease of access for disputants who had the right equipment and internet access
- ✓ Regular system updates
- ✓ Comprehensive training tools provided by SCAO ODR
- ✓ Community support for referrals and funding of ancillary services such as kiosks
- ✓ The outreach that was conducted to courts and referral sources that convinced them to adopt MI-Resolve and to encourage citizens in disputes to use it

The three main barriers to wider utilization of MI-Resolve cited by directors were:

1	Problems in locating one of the parties in the dispute	2	Lack of interest by some courts	3	Reluctance by staff and mediators to try a new option if current system worked well
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REACTIONS TO THE USE OF MI-RESOLVE

Focus groups with CDRP center executive directors and mediators and a survey of stakeholders (judges, court administrators, center board members, attorneys, and other referral sources) addressed these four topics regarding MI-Resolve.

<i>Access to Dispute Resolution Services</i>	The general consensus among CDRP center directors and the stakeholders surveyed is that the addition of MI-Resolve has increased access to dispute resolution services for Michigan residents. Even if it does not result in a direct resolution, it often makes users aware of the centers' services and motivates them to use Zoom VDR. They also noted that initial party-to-party negotiations using MI-Resolve, even if unsuccessful, help users to be more prepared if they do need to use the center's mediation services or go to court, which helps ensure more productive sessions or hearings.
<i>Effectiveness of MI-Resolve</i>	In the survey, respondents from courts and other referral sources generally reported MI-Resolve to be an effective means for resolving disputes. However, center personnel were split in their assessment, with higher ratings of effectiveness coming from centers with higher usage rates. MI-Resolve was seen to be most effective for small claims and other monetary disputes. Numerous suggestions were made for improving effectiveness.

<i>Satisfaction with MI-Resolve</i>	As with ratings of effectiveness, directors in centers that had higher usage rates expressed greater satisfaction with MI-Resolve as a form of VDR. Among the small number of survey respondents with direct knowledge of users' experiences, all said users were satisfied or very satisfied with MI-Resolve.
<i>Limitations of MI-Resolve</i>	<p>The following were the limitations cited most frequently:</p> <ul style="list-style-type: none"> • While supportive of the concept of MI-Resolve and its potential, most agreed that it needs improvements to be fully effective. Fortunately, many system enhancements and online training materials are being developed in response to feedback from users and center staff • Outreach and educating the public and the courts that MI-Resolve is an option for dispute resolution is necessary if it is to succeed • The inability to invite and engage the second party on a case if the first party filing the case doesn't have their correct contact information is seen as the biggest obstacle to using MI-Resolve • Users must trust it as legitimate, court-sponsored option when they receive email invitations to participate and not perceive it as a scam or a phishing attempt

CONCLUSIONS

ZOOM VDR

The issuance of the statewide stay-at-home order in March 2020 was a “sink or swim” moment for Michigan’s Community Dispute Resolution Program centers. They were immediately removed from their natural environment in which dispute resolution services had always been delivered in-person and thrown into one in which they had to deliver services virtually if they wanted to survive. Fortunately, each had already been issued a life preserver in the form of a Zoom license. A few centers were familiar with Zoom – having already used it to test the waters of virtual dispute resolution – but most found themselves suddenly immersed in a world of virtual service delivery with just Zoom to keep them afloat. Fortunately, they all survived. This study looked both at how they managed to survive and at how well they have adapted to their new environment. Here are some conclusions.

CDRP centers adapted well to the use of Zoom VDR under difficult circumstances

The foresight of SCAO ODR in providing Zoom licenses to the centers prior to the pandemic so that they could improve their alternative dispute resolution practices was a critical factor in helping the CDRP centers quickly make the transition to the world of virtual service delivery. Perhaps equally as important was that early in the COVID-19 pandemic ODR promptly developed and delivered training and guidance to the centers on how to use Zoom to do their work.

Under the leadership of the CDRP center directors and their boards, center staff and volunteers found creative ways to integrate Zoom VDR into their existing service models and continue meeting the needs of the courts, the schools, other community organizations, and, most importantly, their local citizens. Some centers accomplished this almost immediately, but all had done so by mid-summer 2020. Without Zoom, CDRP centers would not have been able to continue operations and meet these demands.

It is even more remarkable that the centers were able to make a speedy transition to VDR when most of them experienced major shifts in the size and composition of their caseloads. They found new and effective ways to use Zoom when caseloads increased and used their new Zoom capabilities to market their services when traditional referrals declined.

The transition was not entirely smooth. One of the biggest and most impactful problems was that many of the centers' experienced volunteer mediators and some staff left because they did not find mediation via Zoom to be compatible with their mediation styles, technical skills, and/or interests as volunteers. To deliver mediation and facilitation services virtually requires that both the person-to-person and technical aspects of Zoom sessions be addressed simultaneously. The centers have used various options to address this issue: tech training for current volunteers, recruiting and training tech savvy individuals as mediators, and using staff to handle the technical aspects of Zoom. Each center will have to decide which options works best for it.

Finally, some centers did not just adapt to using Zoom in place of in-person mediation, but used Zoom to completely rework their service delivery models for certain dispute types and demonstrated the potential for VDR to make the centers' services more accessible, responsive, and effective.

Zoom VDR is an effective tool for CDRP centers

The caseload data examined in the study found that later in the pandemic, when the centers had fully adjusted to using Zoom, the overall rates of successful case resolution were a little below or at the same positive levels the centers had achieved just before the pandemic. It is expected that these rates will improve further when the courts and centers are fully reopened and can address factors that caused more cases to be closed during the pandemic because parties could not be contacted or did not show for their sessions. The data also showed that in some cases Zoom VDR improves the speed of resolving disputes and thus increases access by allowing more cases to be processed in the same period of time.

In the survey and focus groups Zoom VDR was judged to be as effective as in-person methods for resolving most types of disputes, and both center personnel and referral sources expressed a high degree of satisfaction with its use. The consensus among center directors is that it is a "useful tool in our toolbox" – and for many it will be the preferred tool going forward.

The use of VDR has been established throughout the network of CDRP centers and is here to stay

The silver lining of the pandemic is that by creating a "sink or swim" moment it forced all CDRP centers to use Zoom and thus accelerated the establishment of VDR as a viable and acceptable option throughout the state. Now that the courts and others have seen what the centers can do for them when using Zoom VDR and witnessed its efficiencies, it is likely that they will want to expand its use. Furthermore, all the center directors have confirmed that they intend to continue using Zoom and are creating hybrid service delivery models that will offer a mix of in-person and Zoom dispute resolution services.

MI-RESOLVE

Because no data were available on MI-Resolve's utilization or effectiveness, and because many participants in the focus groups and the stakeholder survey had very limited experience with it, the following conclusion speaks more to the potential of this form of VDR than to its demonstrated abilities.

MI-Resolve has shown potential and has the capacity to develop more fully in the near future

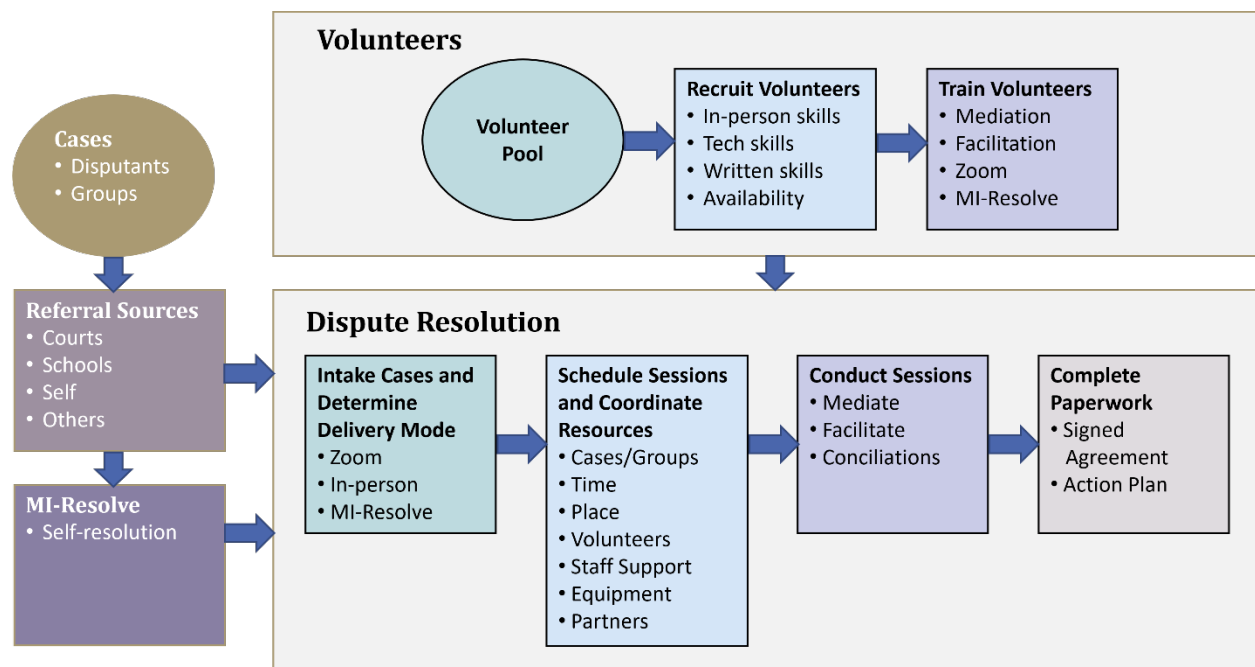
- ✓ Because it is provided online, and free of charge to Michigan citizens, it increases access to dispute resolution services and, if successfully used, will reduce the need to go to court and thus lessen the demands on the judicial system.
- ✓ Even if using MI-Resolve does not produce an immediate agreement, it can be a useful first step in dispute resolution. Some CDRP centers and courts have found that using MI-Resolve helps users gather needed documentation and organize their arguments so that subsequent hearings or mediation sessions go faster and are more productive.
- ✓ There is collective anticipation of what MI-Resolve can do now that multi-party functionality has been added. Once more training is provided and operating issues identified and resolved through use, it has the potential to prevent more types of disputes from going to court.
- ✓ Other planned enhancements, such as a system dashboard and an interface allowing data to be uploaded to the CDRP tracking system, will greatly enhance the ability of SCAO and the centers to monitor MI-Resolve utilization and outcomes.
- ✓ The positive opinions of MI-Resolve held by directors whose centers have used it the most, indicate that other centers may also find it to be a useful tool once they have more experience with it.
- ✓ It is important that the CDRP centers continue to promote and administer MI-Resolve for it to become more widely adopted.

8. Future Considerations: Post-Pandemic Dispute Resolution Options for CDRP Centers

As they move into a post-pandemic future, the CDRP centers have many more options for delivering dispute resolution services than they did before the pandemic. All centers now have extensive experience using Zoom to mediate and facilitate cases, and MI-Resolve is available statewide – so there is no need to revert to resolving each case face-to-face. In fact, every center intends to use a hybrid model that includes both in-person and virtual dispute resolution going forward. But what are their hybrid options?

Figure 8.1 is a simplified case flow diagram that will be used to point out the myriad options for service delivery now available to the centers and the choice points where decisions made by the local centers can significantly affect what their hybrid models look like.

Figure 8.1 Dispute resolution case flow showing choice points for decisions in creating hybrid models



MAJOR CHOICE POINTS FOR CDRP SERVICE DELIVERY



Cases. This study has revealed that most disputes or cases that come to the centers fall into two general categories: 1) disputes between two or more parties that are in need of mediation, and 2) issues involving groups of individuals and stakeholders that are more amenable to resolution through group facilitation and restorative practices. Centers can decide the extent to which they want to be able to provide each of these types of dispute resolution and whether to do so using VDR. This has implications for staffing, training, and service delivery. The Group 2-School Contract centers, for example, had large pre-pandemic caseloads of school cases because they could provide seasonal contract staff with advanced training in group facilitation and restorative practices as well as mediation. The Group 1-Landlord/Tenant centers made the decision to help the courts reduce the Eviction Diversion Program backlog and as a result changed the type of services many of their volunteers delivered (more facilitation, less mediation), and in some instances revamped their whole service delivery model so these cases could be resolved quickly via Zoom.



Referral Sources. Only a small percentage of cases are self-referrals to the CDRP centers, the vast majority come from the courts, schools, and other organizations in the community. Here the centers need to ask themselves, “How aggressively do we want to market our new VDR capabilities?” The issue is, do they want to use these new tools to gain more control over the number and types of cases they receive, or are they content with responding to cases sent to them by existing referral sources? Several center directors described how they marketed their Zoom VDR capabilities to the courts to ensure that they continued getting referrals during the pandemic, and one described getting prosecutors to refer certain types of cases for virtual resolution when judges were reluctant to use VDR. And if they want to boost the number of self-referrals, centers can promote MI-Resolve throughout the community as most are already doing.

The centers can also pair the offering of Zoom VDR and MI-Resolve with other changes that will make the process more efficient, such as when centers got the courts to email whole dockets of small claims cases and were able to resolve many of them via Zoom prior to their hearing dates.



MI-Resolve. As shown in figure 8.1, the hybrid model could involve having the courts and other referral sources direct the parties in certain types of cases, such as small claims, to first try resolving the dispute between themselves using MI-Resolve. If parties reach a resolution without a mediator, a mediator will join them online to scribe their agreement so it follows the necessary standards and can be sent to the parties on the platform for signature. Other forms of dispute resolution could then be employed if this doesn’t work. Or centers that want to give parties the choice of how to resolve their case could always include MI-Resolve as one of the options.



Volunteers. Volunteers are the foundation of the CDRP centers in Michigan. Prior to the pandemic when services were all delivered face-to-face, the pool of individuals who could serve as volunteer mediators and facilitators was limited in some regards. In addition to being mature individuals with good interpersonal skills and the ability to remain neutral, they also had to be available for large periods of time during normal working hours and be willing and able to travel to the mediation sites. Adding the two new forms of VDR to the centers’ arsenal has widened the pool of potential volunteers to include those who can’t travel, who live out of the area, who are available outside of the normal workday, or who can only donate their time in small blocks. By recruiting these types of individuals, the centers can “think outside the box” in choosing their hybrid options, such as offering Zoom dispute resolution in the evenings and on weekends, thus making it more accessible to those who work fulltime.

The catch is that volunteers recruited to use Zoom or MI-Resolve must already have a certain degree of technical skill or be willing to be trained. In the case of MI-Resolve, they must also be skilled in communicating clearly and professionally using email text messages. Centers could choose to recruit some volunteers just to handle the technical aspects of Zoom calls or, when necessary, train clients in advance how to use Zoom or MI-Resolve so they’re ready for their sessions, thus freeing staff from these responsibilities.



Intake and Service Delivery Mode Options. The intake process is another area where the center’s choices can greatly shape how their hybrid model will operate. Some center directors said they prefer a model in which Zoom VDR is the default option for all cases unless one of the parties can’t participate that way, while some want to offer in-person first, and others want to leave the choice for the parties to decide. Some new hybrid models might even choose to match mode of delivery with the type of case – e.g., use Zoom for most types of disputes, but always provide restorative practices in-person for schools. The larger centers that handled the bulk of the eviction diversion pretrial cases demonstrated that by hosting as many as 25 breakout rooms simultaneously on Zoom they could effectively screen cases and shuttle them to the rooms with the appropriate volunteers and partners to help resolve the case quickly – some were mediated, and some facilitated.



Scheduling and Resource Allocation. All the choices that have been made in the other areas will greatly affect center staff’s abilities to schedule mediation and facilitation sessions and allocate and coordinate all the resources required to make them work. Having VDR options enables the centers to be more creative in how they schedule and deliver services. They will be making decisions such as: Do we have the right ratio of volunteers who can deliver in-person and Zoom mediation in our hybrid model? Do we really need to reserve physical meeting space in each rural county and, if not, what equipment will we need to ensure access for all? What is the best way to schedule volunteers’ time, so they don’t experience Zoom fatigue? The centers have already addressed many of these issues during the pandemic and their choices will continue to affect how their hybrid models operate in a post-pandemic future.



Sessions. When building a hybrid model, there are also choices to be made in how dispute resolution sessions are to be run. A number of center directors reported how they had to assign staff to provide all the technical and administrative support to Zoom sessions “so volunteers could just focus on mediating” and described the toll these extra duties took on their staff. Centers will need to build in ways to reduce these stresses, perhaps by recruiting or training special volunteers to do this, getting mediators trained and comfortable in doing it all by themselves, or hiring more technical support staff.

In terms of session structure, one director has suggested using a “hybrid-within-a-hybrid” model in which some parties would be online while the others are in-person with the mediator. Another director opposed such a model, insisting that parties must all participate in-person or all via Zoom to maintain equality in the mediation session. Using a mixed-attendance approach might be a less controversial choice for group facilitations.



Paperwork. There’s always the paperwork! During the pandemic, the centers pioneered and refined several ways to generate mediation agreements and group action plans online, transmit these documents electronically to all parties and the courts, and obtain electronic signatures. Centers can draw on these experiences when building their hybrid models and look for ways to streamline the process and get court buy-in for using some of these methods as standard operating procedure for all cases.

As can be seen, each CDRP center will develop its own unique hybrid model for delivering post-pandemic dispute resolution services based on the decisions made at each choice point discussed above. There will be no right or wrong models, only those that the center executive directors, staff, and boards of directors collectively decide will work best at their centers. However, as they have done throughout the pandemic, it is anticipated that the center directors and SCAO ODR will continue to meet and share their experiences and insights, and that from these exchanges they will identify best practices and develop guidelines that can be adopted by most centers in the future.