

# Permanency Planning Mediation Pilot Program

## Evaluation Final Report

Prepared by  
Gary R. Anderson, PhD, MSW  
Peg Whalen, MSW

for  
Michigan  
State Court Administrative Office

June 2004

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# Acknowledgments

This project was funded by a federal Children's Justice Act grant to the Governor's Task Force on Children's Justice, administered through the Family Independence Agency, under the Child Abuse Prevention and Treatment Act, Administration of Children and Families, U.S. Department of Health and Human Services, CFDA 93.643, being Section 107(a)-(f) as amended (42 U.S.C. 5101 et seq.); and the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601 et seq.).

In addition, this project was funded by State Court Improvement Program funds from the U.S. Department of Health and Human Services, administered through the Michigan Supreme Court, State Court Administrative Office (CFDA 93.586). The State Court Improvement Program is a federal initiative originally authorized by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66).

The MSU School of Social Work extends its appreciation to the funders, agencies and individuals that contributed to this evaluation of the Michigan Permanency Planning Mediation Pilot (PPMP) Program.

Although the School of Social Work evaluation team compiled and analyzed the information for the evaluation research, many others played significant roles in the process. Their assistance and feedback strengthened the results and value of the evaluation findings. Particular thanks go to Linda Glover, retired Michigan Court Improvement Program Coordinator, Michigan Supreme Court, State Court Administrative Office, whose initiative and foresight led to resources and support for the evaluation project.

Our appreciation is extended to members of the Permanency Planning Mediation Pilot Program Evaluation Advisory Committee. These individuals offered insightful and substantive contributions to the evaluation by helping to shape the data collected and guide interpretation of the findings. These individuals deserve special recognition and include: The Honorable Michael Anderegg, Chief Judge, Marquette County Probate Court; Karen Beauregard, Executive Director, Dispute Resolution Center of Central Michigan; Susan Butterwick, PPMP Program Coordinator, The Dispute

Resolution Center; Mary Chaliman, Supervisor, Family Independence Agency; Sharonlyn Harrison, Director, Public Research & Evaluation Services; Kathy Lane, PPMP Program Coordinator, Northern Community Mediation; Susan LeDuc, Deputy Chief Assistant for Family Court, Ingham County Prosecuting Attorney's Office; Ernestine Moore, Co-chair, Governor's Task Force on Children's Justice; and Frank Vandervort, Program Manager, Michigan Child Welfare Law Resource Center.

Thanks also are offered to the seven Community Dispute Resolution Program Centers, whose piloting of the Permanency Planning Mediation Programs provided the basis for evaluation of Michigan's efforts to introduce permanency planning mediation in Michigan. Staff at the following program sites were gracious hosts and interested colleagues during the collection of case information: Citizen Dispute Resolution Service, Inc. (Charlevoix, Cheboygan and Emmet); Western UP Mediators (Gogebic, Ontonagon, Dickinson and Iron); Gryphon Place Dispute Resolution Services (Kalamazoo and Cass); Dispute Resolution Center of West Michigan (Kent); Dispute Resolution Center (Washtenaw); Marquette-Alger Resolution Service (Marquette and Alger); Center for Dispute Resolution (Sanilac).

Special thanks go to the Office of Dispute Resolution at the State Court Administrative Office of the Michigan Supreme Court. We acknowledge the commitment, collegiality and professionalism offered to the evaluation team by Douglas Van Epps, Director; Laura Bassein, Project Coordinator; and Angela Gooding, Administrative Assistant.

Finally, thanks to the social work graduate students and other professionals who completed the sensitive and tedious task of recording case information and analyzing court dockets for the child welfare cases that benefited from mediation services including: Kim Steed, MSW; Andrew Greifer, MSW; Bev Henrichsen, Court Appointed Special Advocate and Mediator. Special thanks to Monaca Eaton, BSW, record reviewer and evaluation research assistant, who worked countless hours on coordinating data collection, interpreting dockets and report writing.

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## Evaluation questions and findings

This report describes the exploratory, descriptive program evaluation of Michigan's Permanency Planning Mediation Pilot (PPMP) Program. The evaluation design is a retrospective, longitudinal investigation, including both process and outcome measures.

The evaluation was designed to address eight specific questions in addition to compiling lessons learned from this pioneering effort. Conclusions have been drawn from the evaluation results, based on a variety of information sources and data collection methods, including mediation case file reviews, public court file records, administrative data, satisfaction surveys, questionnaires and interviews.

1. **Does mediation have an effect on the time it takes for a child protection case to reach permanency in comparison to cases that are not mediated?** Mediation has a positive effect by decreasing the time it takes for a child protection case to reach permanency. The mediated cases achieved permanency in 17 months compared to the non-mediated case average of 29-1/2 months.
2. **Does mediation have an impact on parental compliance with the service plan?** The impact mediation has on increasing parental compliance is unclear at this time. Comparison data for service plan compliance was not available for either mediated or non-mediated referrals. Compliance with mediation agreements was high, in general. Child attendance at the mediation was related to lower rates of non-compliance with mediated agreements (10% when children attended, 22% when children had not been present).
3. **What are participant perceptions of the mediation process?** Participant perceptions of the mediation process are positive overall. The most positive participants are professionals, both attorney groups and child welfare/human services professionals, with total scores of 86 and 82.5 out of 100. Family member participants ratings were lower, with 75.1 out of 100, but still quite high

given the involuntary nature of their involvement.

4. **Has mediation had any impact on the relationships of the stakeholders in the child welfare system?** Mediation has had a constructive impact on relationships between various child welfare system stakeholders in the majority of communities.
  5. **Are there unanticipated outcomes of the mediation process?** No unanticipated negative outcomes of the mediation process were found. The high levels of participant response and satisfaction were the only unanticipated positive findings.
  6. **Does the structure or procedures of the local program have an impact on outcomes?** Although not definitive, local pilot program structures and procedures do not appear to have a negative effect on permanency outcomes. Detailed interviews at each pilot program site support this conclusion. Achievement of outcomes and the types of outcomes did not differ significantly across sites.
  7. **What is the perception of referral sources, primarily courts, on the impact of mediation?** Judges' perceptions of the impact of child protection mediation are mixed. Higher levels of experience corresponded to more positive endorsements of permanency planning mediation and better assessments of its effectiveness with respect to cost, overall utility and compliance.
  8. **Are there implications for cost or time savings when mediation is used in child protection?** There are a variety of implications for cost and time savings when mediation is used in child protection. Benefits are both financial and outcome related with respect to the best interests of children. Improvement in judicial economy was noted such that reduced demands on a judge's time allowed for greater attention to other matters.
- Michigan's pilot program evaluation affirms the usefulness and cost effectiveness of mediation in child protection cases.

## Executive summary

This program evaluation provides a retrospective look at the first three years of child protection mediation in seven Michigan pilot program sites. The seven mediation sites participate in Michigan's Permanency Planning Mediation Pilot (PPMP) Program. Michigan's federally-funded Court Improvement Program supported the pilot program.

Mediation for child protection cases has been implemented successfully in Michigan. Reports on referrals to mediation from 19 courts throughout the state revealed 338 cases were disposed between 1999 and 2001. Forty-nine of these cases were withdrawn or participants did not show up for scheduled mediations, resulting in 289 referred cases (85.5%) that ultimately were mediated. Pilot program sites still receiving funding for child protection mediation in 2004 served the 207 cases considered in this evaluation.

- In 2002 and 2003, an additional 287 cases were referred to mediation. (These cases are not included in this evaluation.)
- Two hundred thirty-three (n=233) of these cases (81.2%) were mediated.

The evaluation analyzed the characteristics and outcomes for 207 cases referred to mediation between 1999 and 2001. Of these 207 referred cases:

- 36 mediations were the result of multiple referrals to mediation for 13 families, in which different issues were mediated throughout the court case. The data for these families and mediations were excluded from the evaluation analysis.
- 171 (82.6%) were referred once.
- The remaining 17.4% of cases were referred but not mediated (n=33).

These figures indicate that the evaluation sample reflects a nearly identical proportion

of cases mediated as compared to the mediation rate compiled from the statewide program case census.

This evaluation report describes the findings of the evaluation of the cases referred for mediation at existing program sites during 1999, 2000 and 2001. Analysis included case characteristics and outcomes for 207 of the 289 referrals during this three-year period, accounting for 85.5% of the PPMP Program referrals. The eighty-two (82) cases not included were served by sites no longer funded and, therefore, deemed too difficult to recover data from and very early cases served in the beginning months of the PPMP Program implementation when record systems were incomplete because of ongoing development of forms and record keeping protocols.

The evaluation examined 207 mediation referrals, of which 171 represented individual, unduplicated families. This sample of 171 cases is the basis for the findings presented herein. The families with multiple referrals and mediations are an interesting subset of cases served by the program. However, analysis for these 13 families with 36 referrals is beyond the scope of this evaluation but will be examined and reported in the future as resources allow.

Thirty-three (n=33) of the 171 cases referred once to PPMP Programs (19.3%) were not mediated. The remaining 138 referrals (80.7%) were mediated.

### Summary of key findings

#### Implementation and program statistics

1. **The PPMP Program was used at a variety of points in the child protection and legal process from pre-adjudication through completing petitions to adopt.** Although Michigan's legal system includes a hearing called the permanency planning hearing, the PPMP Program addresses cases at all stages of the legal process not just at the permanency planning hearing.

2. **The PPMP Program was successfully implemented using two mediators at each session.** Mediators were most often community volunteers with extensive training and supervision—demonstrating the high level of skill needed but also revealing the effective use of talented volunteers. Mediator effectiveness was rated highly by all types of participants.
3. **Mediation agreements were finalized in the great majority of cases.** In several cases where a signed agreement was not obtained, agreement was partially or fully achieved but parties objected to signing a document (with or without a final agreement, participants reported high rates of satisfaction). Based on pilot program reports, 338 cases have been disposed from 1999-2001. Forty-nine of these cases were withdrawn or participants did not show for mediation, resulting in 289 mediated cases. Agreements were reached in 82% of cases mediated in 2001; 83% in 2000; and in 76% in 1999. These rates are comparable or superior to rates from child protection mediation projects in other states. Favorable agreement rates continued in 2002 (87%) and 2003 (82%).
4. **Cases were referred but not mediated for a variety of reasons.** The case may have been assessed as unamenable for mediation, often because of current domestic violence. The most commonly noted reason for no mediation was a conciliation that resolved the issues without a formal mediation. Conciliations with an agreement and without were distinguished for referrals not mediated. Additional reasons include either the initiator or respondent refused to mediate or the initiator or respondent failed to show. The initiator may have dismissed the case after referral was made. Or, the mediation coordinator or mediators may have been unable to contact or schedule the mediation.
5. **There was a large increase in the number of cases disposed from 1999 to 2000** (75 to 129) and a slight increase from 2000-2001 (129 to 134). Figures for 2002 show continued growth, with 158 cases disposed. Disposed cases in 2003 dropped to 148.
6. **Mediation agreements covered a broad range of actions,** reflecting the effective use of mediation with all types of child maltreatment and at all stages in the legal process. These agreements included creative solutions for family problems, with multiple services for families and detailed action items. The most frequently addressed challenge was visitation. Visitation is a crucial consideration for child well-being and for the facilitation of timely permanency decision-making. Other frequent issues included: child placement decisions, service plans, plea and petition language and parental counseling.

### Permanency outcomes

1. **The time to permanency, of any type,** was challenging to evaluate given the range of stages at which mediation occurs in the child protection legal process. For all cases referred for mediation, regardless of referral point, *the time from petition to any type of permanency averaged 17 months.* This figure compares favorably with AFCARS statistics; analogous federally-compiled statewide indicators of lengths of time to permanency as reported by the State of Michigan Family Independence Agency.
2. **For all cases referred for mediation,** *the average time from mediation referral to any form of permanency averaged just over 13 months.* Following referral to mediation, family reunification was achieved on average in 11 months; adoptions were finalized on average in 15 months. Referral points for each form of permanency did not differ significantly from each other, i.e., adoption cases were not referred any later in the case than

either cases eventually reunified or in which guardianship was the final resolution.

3. **Comparison of these averages** for time to permanency to statewide statistics from Michigan's federally-reported AFCARS data, suggests that *permanency is achieved in a more timely manner in adoption cases*, with some modest time savings in foster care cases resulting in reunification.
4. **A significantly greater proportion of mediated cases had reached a permanency outcome of some type, as compared to non-mediated cases.** Comparison of cases referred to mediation and mediated revealed a statistically significant and substantially larger proportion ( $\chi^2=16.6, p < .001$ ) of cases achieving permanency (85.2%) than was observed for cases that were referred but did not reach mediation (51.7%).
5. **Time from petition to permanency was shorter for mediated cases, compared to cases referred but not mediated.** For cases that had reached permanency, comparison was made between cases that had been mediated ( $n=106$ ) and those that had not ( $n=11$ ). Despite the large discrepancy in sample sizes, significant differences between these two groups were found for average length of time between referral to mediation and permanency. Differences were such that *mediated cases had an average time from petition to permanency of 12-1/2 months, and cases referred but not mediated reached permanency, on average, within 20-1/2 months of being referred to mediation.* The difference is statistically significant and substantial given the eight-month difference in achieving permanency ( $t = 2.59, p < .01$ ).
6. **With regard to costs associated with the PPMP Program, the expense of the program is related to the time expended in preparing for, conducting and following up the mediation.** *The average amount of time expended to prepare for, conduct and follow up on a mediation from initiation*

*to end was 11 hours.* The average length of time for the mediation session itself was three hours. The use of volunteer mediators reduced the expenses associated with mediation.

7. **Legal costs and social service expenses related to mediation or traditional court work varied from county to county.** However, *the costs of a PPMP Program staffed with trained volunteers logically presents a cost-effective alternative to traditional court action.* A relatively low-cost mediation program, with unpaid mediators providing a service that potentially reduces the need for multiple court hearings and/or court expenses associated with hearings and trials, has the potential for substantial savings.
8. **Additional cost savings may be realized for cases in which mediation results in higher rates of parental compliance with service plans, court orders and mediation agreements than would otherwise occur.** Better compliance in turn may reduce time in costly out-of-home care or in negotiating visitation and living arrangements that may promote stability for children and fewer complications for child welfare workers.
9. **In addition to financial implications, child protection mediation also enhances Michigan's attainment of federal Child and Family Services Review requirements regarding family involvement, thereby protecting federal support for child welfare in the state.** A non-monetary benefit for children and families and the agencies that serve them accrues to the program because it promotes family responsibility and cooperation in a manner that reduces conflict and delay.
10. **In the great majority of cases in which a mediation agreement was finalized, there were high rates of parental compliance with the terms of the agreement.** This is not to say that mediation is related to increased compliance, only

that observed compliance was high overall. Adequate comparison data for non-mediated cases was not available for analysis.

**11. Michigan permanency planning mediation led to parents and other family members reporting they had been included in case planning and had their viewpoints considered during that process.**

**Benefits and challenges for permanency planning mediation programs**

The preponderance of feedback from mediation participants, mediators and judges spoke to the value of a highly-interactive process, in a less formal and less adversarial environment, with time dedicated to reaching an acceptable plan. With a clearer understanding of issues and viewpoints and with more information introduced than what is available in a traditional court hearing, an effective focus on problem solving could be maintained. This clarity ultimately saved time and promoted permanency. Mediation faced a number of challenges. For example, there could be:

- Disagreement and conflict during a mediation.
- Some participants—both family members and professionals—could be obstinate and unwilling to negotiate.
- Relationships between participants did not always improve through the mediation process.

To attain the benefits and appropriately manage the challenges, mediators need to be skilled and well-trained.

**Participant satisfaction outcomes**

The positive outcomes and participant experiences with mediation support the use of this approach to ensuring safety and permanency for children:

- 1. The majority of judges with experience with a PPMP Program reported very positive perspectives on mediation; some noted that mediation is not a panacea** for all problems, that careful planning is required and that work with stakeholders before the program begins is very important for program success.
- 2. Attorney satisfaction ratings, overall, were quite high.** Lawyer guardians ad litem, prosecuting attorneys and other attorneys in attendance at mediation sessions rated the experience and outcome at least as positively as child welfare professionals.
- 3. Child welfare professionals reported even higher rates of positive assessments of the mediators, the professionals' experiences in mediation and overall satisfaction.** Eighty-three percent judged the mediation outcome to be fair; 91% of FIA caseworkers reported they would use mediation again; 92% stated they would recommend mediation to someone else.
- 4. Family members reported that mediators treated everyone fairly, were neutral, listened carefully to them, were informative and organized;** a majority of family members reported that they were listened to by other participants, talked about the issues that were important to them, increased their understanding of other viewpoints, were treated with respect and reported fully participating in the mediation; and a majority of family members reported the mediation was helpful, the outcome was fair and indicated they would use mediation again and would recommend mediation to others.
- 5. Although relatively small in number, mediation participants who were comparatively less satisfied with their experience and the outcome** were other family members (other than parents and grandparents), children, FIA professionals (other than caseworkers), foster parents and attorneys for fathers (although the great majority reported satisfaction).



## Conclusions

Including mediation as a valued option in the range of legal responses to child maltreatment and protection is at least reasonable, if not preferable to other options.

Calculation of precise financial savings for Michigan as a result of permanency planning mediation may be elusive because of the multiple factors to be considered, hidden costs and county variability. However, concluding that there is a financial savings to be gained from mediation seems reasonable. There also are incalculable benefits associated with

improved family and professional satisfaction, construction of individualized and detailed treatment plans, plan compliance and attentiveness to the permanency needs of children.

Mediation in child welfare cases resulted in positive outcomes for children, families, professionals and systems without increasing the overall costs of the judicial and administrative handling of child welfare cases. Although difficult to precisely quantify, there may be actual cost savings with the use of volunteer mediators. Support for mediation services for child welfare cases seems warranted.

# Introduction

In 1993 the United States Department of Health and Human Services funded initiatives in each state to support family preservation, child maltreatment prevention and services to families at risk of maltreatment and subsequent out-of-home placements of children. This federal initiative, called the Court Improvement Program (CIP), was reauthorized in 1997 as part of the Adoption and Safe Families Act (ASFA). The CIP in Michigan is administered by the State Court Administrative Office (SCAO). Based on an assessment of Michigan's laws, policies and procedures that affect timely and effective case decisions, a number of recommendations were made for improvement. These recommendations included initiatives to strengthen Michigan's legal and service response to child maltreatment. Based on this assessment and subsequent information acquired with regard to best practices in child welfare, the Michigan CIP began the Permanency Planning Mediation Pilot (PPMP) Program.

The statewide assessment recommended that mediation be implemented at various points in time in child protection proceedings. Mediation is defined as *the process in which a neutral third party facilitates communication between two or more contending parties, assists in identifying issues and helps explore solutions to promote a mutually acceptable settlement*. Mediation projects focusing on permanency planning and addressing issues in relation to child abuse and neglect had already been implemented in a number of states, including California, Connecticut, Florida, Ohio, Oregon and Wisconsin.

In Michigan, the pilot projects are offered through local Community Dispute Resolution Program (CDRP) Centers, already supported by SCAO. The Michigan projects were originally introduced through eleven CDRP centers beginning in 1998. This study looks at the experiences of seven mediation program sites spanning over 14 counties. The PPMP Program sites offer mediation services to families and agencies prior to contested hearings, to nego-

ciate case plans, to resolve a range of case difficulties and to address permanency concerns. Mediation was identified as potentially helpful at many stages such as pre-adjudication, post-adjudication, permanency planning and post-termination.

Permanency planning mediation in Michigan involved the intervention of two highly-trained and supervised volunteer mediators to assist families and the child protection/welfare system (child protective caseworkers, agency attorneys and prosecuting attorneys) reach a mutually-acceptable settlement or agreement designed to insure the child's safety and promote permanency for children.

Permanency planning is *the systematic process of carrying out, within a limited period, a set of goal-directed activities designed to help children and youths live in families that offer continuity of relationships with nurturing parents or caretakers and the opportunity to offer lifetime relationships*. (Maluccio and Fein, 1983, p. 197). Consequently, permanency planning mediation was designed to identify, carry out and expedite the achievement of case goals that would result in a safe, permanent home for children in a timely manner. These goals included the safe preservation of the family unit (if possible), timely reunification with one's parents, guardianship with alternative caregivers such as relatives, or termination of parental rights leading to a timely adoption. These provisions of permanency planning were first delineated at the federal level in the Adoption Assistance and Child Welfare Act of 1980.

In broad terms, the stages of permanency planning mediation include:

1. **Referral** to mediation by a judge/referee or other stakeholder, such as a caseworker, attorney or family member;
2. **Preparation** for the mediation session including reviewing selected court documents, identifying and inviting relevant family members and professionals, analyzing the case and reviewing for

domestic violence issues. This preparation for the mediation session includes contacting relevant parties and an intake process with family members providing information about the nature and process of mediation;

3. **Mediators meet with professionals and family members** to inform them about mediation, promote expression of viewpoints and listening to each other, help parties to feel understood, encourage positive relationships and address settlement details; and
4. **Mediation program follow-up** on compliance with the mediation agreement within 60 to 90 days after a mediation session.

Mediation is intended to provide benefits for the children, the family, the child welfare agency, attorneys and the court. These advantages include providing opportunities to understand and meet the family's needs in a timely manner, reduce unproductive time in court, increase opportunities for full participation by all parties and reduce the amount and extent of adversarial litigation. The goals of the mediation process are to assist all parties to reach a settlement that:

- Is informed, timely and dignified;
- Is consistent with public policy;
- Is judicially acceptable;

- Ensures the safety and well-being of children; and
- Maximizes the family's integrity and functioning.

The best interests of children are the primary consideration of the mediation process and outcome.

Each CDRP/PPMP Program site followed similar procedures. Referrals to mediation came from child protective agencies (13%), the family (1%), family or prosecuting attorneys (8%), LGALs (4%), the court (58%) or other stakeholders (16%). PPMP Program procedures included a pre-mediation intake process to gather information, inform participants about the process, determine who should attend the mediation, clarify questions or concerns and screen for domestic violence. Mediation participants included family members, child protective service or other appropriate child welfare agency staff, relevant attorneys (including prosecutors) and others identified at intake as having a significant interest in the case.

Two mediators typically facilitated mediation sessions. These mediators were most frequently volunteers who were recruited and extensively trained for this purpose by the CDRP centers. On occasion, a staff member of the Center would serve as a mediator. The result of a mediation session would be an agreement among the participants at the meeting to be implemented by the family and/or other designated participants.

# Context for evaluation of child protection mediation in Michigan

Although a few states had begun mediation projects, Michigan was one of the pioneers in permanency planning mediation. When the PPMP Program began in Michigan in 1998, it was a relatively new practice. There was and continues to be limited professional literature describing mediation in child protection proceedings. There also have been a small number of evaluation studies.

The following review describes this literature regarding mediation in child protection cases. Several state/province experiences with mediation that informed Michigan's program as well as some common themes in mediation will be identified. The intention is to place the Michigan evaluation in the context of other studies and advance knowledge about this special mediation strategy. (See additional contextual information in Appendix A.)

## Issues and themes

As mediation is a relatively new approach in child protection cases, much of the professional literature describes programs (Firestone, 1997; Giovannucci, 1997; Giovannucci, 1999; Thoennes, 1991; Thoennes, 1994), details the role of mediators and participants (Baron, 1997) and identifies issues and controversies in mediation (Leonard and Baron, 1995; Thoennes, 1991). There are relatively few formal evaluations, with the primary ones in Connecticut, California, Colorado, Iowa, Ohio, Oregon and Wisconsin (Thoennes, 1995; Barsky, 1997). None of these studies used a randomly assigned control group or experimental design (see the Evaluation Methodology section).

The literature does address a number of themes in addition to site-specific programs:

**Value of mediation.** In an in-depth analysis, Allan Barsky reported a study of five child protection cases in which participants were interviewed and suggested that mediation has an

empowering effect on family members through the development of options, equal opportunity to participate in the process, decision-making responsibility and power balancing (Barsky, 1996).

**Utilization of mediation.** Noting that utilization rates for mediation services remain below expectations, one study investigated why clients chose to participate in mediation. This study, based in a Toronto, Canada mediation center, examined five cases and interviewed 16 individuals (five Children's Protective Services (CPS) workers; four mothers, one father, one uncle and five mediators) involved in the mediation cases. The study found that family members preferred to avoid court and that CPS workers preferred to work collaboratively with the family. CPS workers and family members had different perspectives and different concerns, with family members worried about how well the arrangements met their needs and CPS workers concerned about whether an agreement met the best interests of the involved children (Barsky, 1997).

**Description and qualifications of mediators.** Based on interviews with child protection workers, mediators, parents and other family members who participated in mediation, Barsky reported that mediation required a broad range of facilitation and problem-solving skills, careful attention to maintaining a neutral position and the ability to develop a constructive alliance with all parties (Barsky, 1998).

**Point of mediation.** Across programs, practices differed from state to state and sometimes from court to court as to when a child protective case was appropriate for mediation with regard to timing in the court process. For example, in the study of three California counties, only one county (Los Angeles) negotiated the wording of petitions in mediation (Thoennes, 1991). Some programs almost exclusively negotiated voluntary termination of

parental rights and open adoption arrangements (Oregon, Etter 1993, 1998), or primarily focused on these areas of service (Idaho, Washington). Other programs focused on a full continuum of intervention points (Connecticut). Some projects built in a diversion goal for their mediation projects (Iowa).

**Mediation agreements.** Across studies, relatively high agreement rates are reported, with Thoennes and Pearson reporting above 70% partial and complete agreements in five California counties. In her study of three California counties, Thoennes found that 600 of 800 cases were settled in mediation (75%). In Florida, 86% of cases resulted in agreements (Schultz, Press and Mann, 1996).

**Parental compliance.** In a Colorado doctoral dissertation, looking at the impact of mediation on parent compliance, 39 cases were selected. Twenty-two cases were assigned to the experimental group and participated in mediation; 17 were in the comparison group. Parents were given a 17-statement questionnaire. Parents offered mediation felt less coerced and felt a greater commitment to the value of the intervention for them and their children. Mediation did not affect compliance patterns. Mediation did result in a decrease in parental feelings of alienation from protective services intervention (Mayer, 1988).

A Center for Dispute Resolution project in Colorado reviewed 187 child protection cases; at six months, 75% of cases were in full compliance with mediated agreements. Expanded descriptions of mediation projects are in Appendix A.

## Overview

A review of the literature demonstrates that the application of mediation to child protection cases is still a relatively new strategy. Apart from Connecticut and California, most programs have been introduced recently and on a modest scale. The benefits of mediation often are described in terms of participant satisfaction, high parental compliance with agreements and cost savings for courts. The determination of cost savings is oftentimes imprecise but does seem to demonstrate some level of financial benefit for courts and states. The reduction of time to permanency is less frequently examined and oftentimes altogether missing. This may be due to multiple challenges, including the inability to follow cases for a number of years.

Programs across the U.S. and Canada share many similarities with Michigan's program model: stages of the process, use of mediation over the continuum of court timelines, and, as this report will present, similar positive findings for participant satisfaction, agreement and compliance rates. Significant differences also exist. For example, Michigan uses primarily volunteer mediators; most other programs have paid professional mediators. This has implications for program expenses. In addition, Michigan uses two mediators per session and usually has all parties in the room at the same time (as opposed to shuttle mediation). The number of cases analyzed in the Michigan study places it among the highest number of cases examined in child protection mediation.

## Evaluation methodology

This research is an exploratory, descriptive program evaluation of Michigan’s PPMP Program. The evaluation design is a retrospective, longitudinal investigation, including both process and outcome measures. The formative aspects of the PPMP Program have been assessed through interviews with PPMP Program coordinators and/or CDRP Center directors regarding the introduction of child protection mediation in affiliated communities. Evaluation interviews revealed community-specific experiences around the establishment of the PPMP Program as an additional component of community child welfare systems and court intervention. Assessment of relationships among community child welfare stakeholders, i.e., courts, prosecutor offices, public child welfare systems, attorneys and CDRP Centers, provides a description of the current nature of local child welfare systems.

A variety of information and data sources were used to gather evaluation data. Copies of all these data sources are in Appendix C:

- The primary sources of case information, mediation outcomes and permanency solutions were mandatory quarterly and annual case-specific reports collected by the Office of Dispute Resolution (ODR).
- A secondary source of case-specific data was on-site record reviews of PPMP Program files for cases mediated to agreement. Record review identified professionals involved with each case, individual child characteristics, mediation agreement content and permanency information.
- A third source of case information was from copies of court dockets provided by courts. Dockets gave detailed information about the dates of key events and allowed for computation of days between events such as petition filing or authorizations, referral to mediation, dis-

position, terminations of parental rights, permanency decisions and case dismissals.

- The fourth source of evaluation data was mediation participant satisfaction surveys and mediator evaluations that had been forwarded to the SCAO, ODR office.
- A fifth information source was a short, open-ended questionnaire completed by referring judges.
- Finally, PPMP Program coordinators were interviewed about the process of implementing the PPMP Program in their communities and completed an eco-map describing the relationships between their CDRP/PPMP Program and other community child welfare stakeholders.

This study has a number of strengths, including:

- A relatively high number of mediated cases included in the evaluation that reduces the likelihood that a few cases will significantly tilt the findings reported in this study.
- Breadth of the study—seven pilot sites across the state in rural and urban communities—enhances the reliability and generalizability of the information gained.
- Multiple data sources and multiple perspectives provide cross-sections of description that craft a coherent and consistent picture of the program in Michigan.
- Level of detail on the cases provides useful process information for program improvement and replication.

There are also a variety of limitations. The design of the study addresses some of these concerns. Portions of the data—such as participant ratings of the mediation session—are self-reported and, consequently, subject to the traditional concerns about this method of data collection. For example, obtaining information immediately following the mediation reduces distortions due to memory; and the risk of providing socially acceptable, positive answers is reduced due to the anonymity of the participant forms. In addition, the nature of the findings demonstrates variability in responses so that it seems less likely that participants were thoughtlessly providing feedback.

There is some risk that persons might provide a different assessment of mediation at later dates, but the direction of a possible revised assessment (positive or negative) cannot easily be determined, and this possibility has to be balanced against the opportunity to get a high response rate from participants.

There is no control group or experimental design in this evaluation. This aspect of the evaluation design reduces the ability to make definitive statements about the effectiveness of mediation as opposed to other forms of intervention. It is possible to describe mediation and the findings as substantially positive so that the value of mediation seems quite clear. Its superiority could most strongly be demonstrated through an experimental design. However, there are also limitations to the use of an experimental design and control group. For example, the ability to create matched groups of families is very difficult, and this would heighten the need for large sample sizes.

Based on previous studies, there is sufficient ground to conclude that mediation is helpful, so that withholding this intervention from some families (while providing it for others) may be practically and politically difficult. The ability to make some very modest comparisons is not entirely impossible in this study. Although

satisfaction data is not routinely collected for court services, the data gained through the mediation can be compared to other Michigan programs and mediation in other states. Other comparisons can be made with Michigan data about times to permanency. A follow-up exploration to this report comparing cases referred to mediation that were mediated with those that were referred to mediation but did not go to mediation is ongoing (and is partly reported later).

Also, the nature of the mediation program poses a number of challenges for the evaluation. Specifically, the intervention at a variety of points in the court process makes it difficult to firmly establish time lines and reduces the ability to compare and aggregate cases. For example, the time to permanency differs dramatically at any one site depending on when the case is mediated—pre-adjudication, at a dispositional or permanency planning hearing, or at the time of termination of parental rights. Also, variables that affect permanency and, therefore, the outcome of a case in mediation, are many and oftentimes outside of the control and knowledge of court professionals. The nature of cases referred to mediation may in themselves introduce a bias—especially if these are cases that have been particularly troublesome in the court or have not responded to other forms of intervention so are referred to this new service.

What is realistic to expect from a process that brings together participants for three hours? Any intervention must be examined with some degree of modesty and appreciation for what can and cannot be accomplished. As one of the judges with experience with mediation reported, “mediation may not work in all cases nor is it the cure for all of the ills of the child welfare system.” Consequently, this retrospective evaluation has posed a number of key questions and has attempted to answer them and advance knowledge about the use of mediation in child protective cases.

# Key questions

## Time to permanency

Child placements and time to permanency are challenging to consider. It is important to note that it is difficult to compare cases or arrive at conclusions due to the variety of cases accepted for mediation and the variety of stages cases are at in the court process. For example, a review of mediation agreements showed that at the beginning of mediation sessions, children were living in a broad array of placements. Children were placed with:

- Fathers
- Mothers
- Two parents, or parent and stepparent
- A relative in kinship care
- In foster care
- In group homes
- In a domestic violence shelter
- A friend
- A legal guardian
- Relatives who had adopted the child or
- Non-relative adoptive parents.

Permanency has many definitions across the programs and professions involved in child welfare. A broad children's services definition describes permanency as *family caregiving arrangements that offer continuity of relationships with nurturing parents or caretakers and the opportunity to offer lifetime relationships*. Michigan's PPMP Program Mediation Manual (2002) defines permanency as *the intended permanent solution for the safe care and living arrangement for a child*. Permanency solutions are identified for each case using the following categories of outcomes:

**Permanency Outcomes for Families  
Referred for Mediation (n=171)**

Types of permanency outcomes	Percent of families
Adoption	23.4%
Reunification with either parent	36.8%
Guardianship	8.8%
Permanent foster family agreement	1.8%
Long-term foster care	2.9%
Independent Living	1.2%
Other—kinship/relative care	2.3%
Other—not specified	2.3%
Permanency not yet achieved/pending	20.5%

It is important to note that under Michigan law a legal guardianship is never permanent as it may be challenged at any time.

Regardless of pre-referral child placements, a length of time to permanency can be determined. For the 128 non-duplicated cases referred once for mediation and achieving permanency, the range in time from petition to achieving permanency was from 55 days to 2,057 days. (Note that data on length of time to permanency was unknown for eight cases that had achieved permanency. The total number of cases that had achieved permanency by September 2003 was 136.)

## Cases for which time to permanency is known

Of the cases for which times to permanency is known, the following observations were made:

- **For all cases referred for mediation**, the number of days between petition and permanency ranged from 55 days (less than two months) to 2,057 days (67 months), with an average of 540 days, or 17-1/2 months. The number of days between mediation referral and permanency ranged from 5 days to 1,427 days (three years, 11 months after the referral to mediation had been made). The average time to permanency from referral was 406 days, or 13 months. The proportion of all referred cases achieving permanency of any type was 79.5%.
- **For referred cases that actually convened a mediation**, the number of days between petition and permanency ranged from 55 days (less than two months) to 1,415 days (46 months), with an average of 506 days, or 16-1/2 months. The length of time from referral to mediation and permanency ranged from five to 1,394 days. The average time from referral to mediation to achieving permanency was



382 days, or about 12-1/2 months. The proportion of mediated cases achieving permanency of any type was 85.2%.

- **For referred cases that did not hold a mediation**, the number of days between petition and permanency ranged from 99 days (three months) to 2,057 days (67 months), with an average of 899 days, or 29 months. The length of time between mediation referral and permanency ranged from 91 to 1,427 days. The average length from referral to mediation to achieving permanency was 633 days, or about 20-1/2 months. The proportion of cases referred but not mediated achieving permanency of any type was 51.7%.

### Cases referred but not mediated

Detailed information on cases referred to mediation but not mediated was limited. Of the 171 cases referred for mediation just once, only 35 did not have mediation, and nearly half (48.8%) of those not-mediated referrals, had yet to reach permanency. Some information was available with regard to those non-mediated cases with a permanency resolution.

At this time, with the number of cases studied, the effect that is observed concerns whether or not permanency has been achieved. Mediated and non-mediated cases were compared on the achievement of permanency (as opposed to length of time to permanency). There was a statistically significant difference between cases that were mediated in comparison to cases referred for mediation but not mediated. For cases referred but not mediated, only 51.7% had achieved permanency at the time of the evaluation. In contrast, 85.2% of referred cases that were mediated had achieved permanency at the time of the evaluation. There is significantly higher achievement of permanency for mediated cases than non-mediated cases (chi-sq = 16.6,  $p < .001$ ).

At this point in time, comparing cases referred to mediation—but for which there

was no mediation—to cases referred and mediated, is possible but potentially premature with regard to the question of length of time to permanency (due to the small number of cases that achieved permanency). However, for cases that had reached permanency ( $n=128$ ), comparison was made between cases that had been mediated ( $n=117$ ) and those that had not ( $n=11$ ). Despite the large difference in sample sizes, significant differences between these two groups were found for average length of time between petition and permanency. Mean differences were such that mediated cases had an average time from petition to permanency of 506 days (16-1/2 months), and cases referred but not mediated reached permanency, on average, in 899 days (29-1/2 months). This difference is statistically significant ( $t = 2.08$ ,  $p < .05$ ) and quite large, 393 days (12-1/2).

Differences between the lengths of time from referral to mediation to permanency also were tested statistically. Five cases did not have a known referral-to-mediation date. This missing information resulted in a smaller sample size for the mediated cases group. For cases that had reached permanency, comparison was made between cases that had been mediated ( $n=106$ ) and those that had not ( $n=11$ ).

Despite the large discrepancy in sample sizes, significant differences between these two groups were found for average length of time between referral to mediation and permanency. Mean differences were such that mediated cases had an average time from petition to permanency of 382 days (12-1/2 months), and cases referred but not mediated reached permanency, on average, within 633 days of being referred to mediation (20-1/2 months). The difference is statistically significant and substantial ( $t = 2.59$ ,  $p < .01$ ).

### Types of permanency

In addition to descriptive information about the achievement of permanency, differences among cases ending in various types of permanency were compared on each of the mea-

sures of time to permanency, i.e., length of time from *petition to permanency* and between *referral for mediation to permanency*. Statistically significant differences were found for length of time to achieve permanency based on the type of permanency outcome. There were notable differences in time to permanency from petition, but not from referral to mediation among cases culminating in adoptions (n=36), reunification (n=55) and guardianship or kinship-based permanency (n=19).

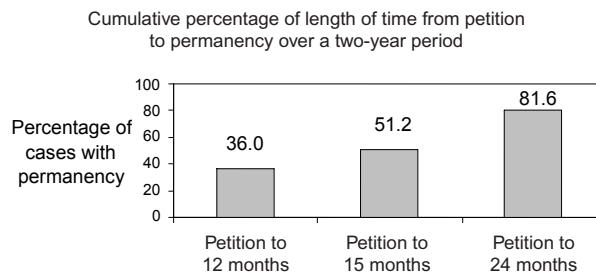
Closer analysis of differences in length of time to permanency from the date of petition revealed statistically significant differences (p<.05) for **days between petition and permanency** among the various groups of permanency solutions such that:

- Cases resulting in *adoptions* had a mean time to permanency of 22 months (Mean=666 days). This group was significantly longer than:
- *Reunited families*, who were reunified on average in 15 months (Mean=460 days).

Because of the disproportionate and smaller sample size for guardianship or kinship-based permanency, only 19 cases, neither adoptions nor family reunifications were statistically significantly longer than cases involving *guardianships*, which reached permanency in 17-1/2 months (Mean=525 days). The apparent differences are not substantial enough to rule out chance as the best explanation for the finding.

**Days between referral to mediation and permanency** statistically were not significantly different across permanency solutions. The following list reveals no differences of statistical consequence among:

- Cases ending in *adoption*, which reached permanency within 16-1/2 months of referral;



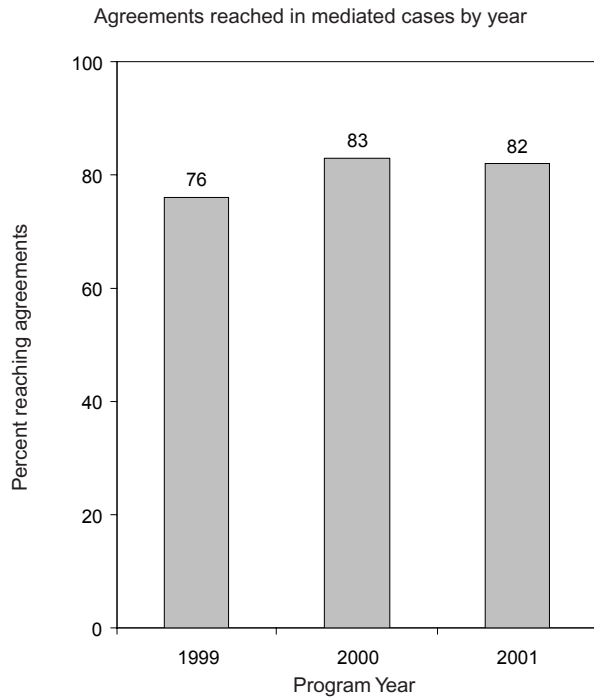
- Families who were *reunited*, on average within 12 months of the mediation;
- Or cases involving *guardianships or kinship care* arrangements, which reached permanency in slightly less than 12 months.

Because of disproportionate sample sizes, statistical comparisons between mediated and non-mediated cases could not be made for cases ending in adoption (n=30 vs. n=6), reunification (n=52 vs. n=3), or guardianships/kinship care (n=17 vs. n=2).

For all mediated cases achieving permanency of any type (n=131), 36% achieved permanency within 12 months of the petition; at 15 months of the petition, 51.2% had reached permanency; and at 24 months from date of petition, 81.6% had reached permanency.

### Mediation agreements and parental compliance

Based on quarterly reports submitted to SCAO by pilot programs, 338 cases were referred for mediation between 1999-2001. Forty-nine of these cases had referrals that were withdrawn or participants that did not attend a scheduled mediation session, resulting in 289 mediated cases. There was a large increase in the number of cases disposed from 1999 to 2000 (75 to 129) and a slight increase from 2000-2001 (129 to 134). Agreements were reached in 76% of cases mediated in 1999, 83% in 2000 and 82% in 2001.

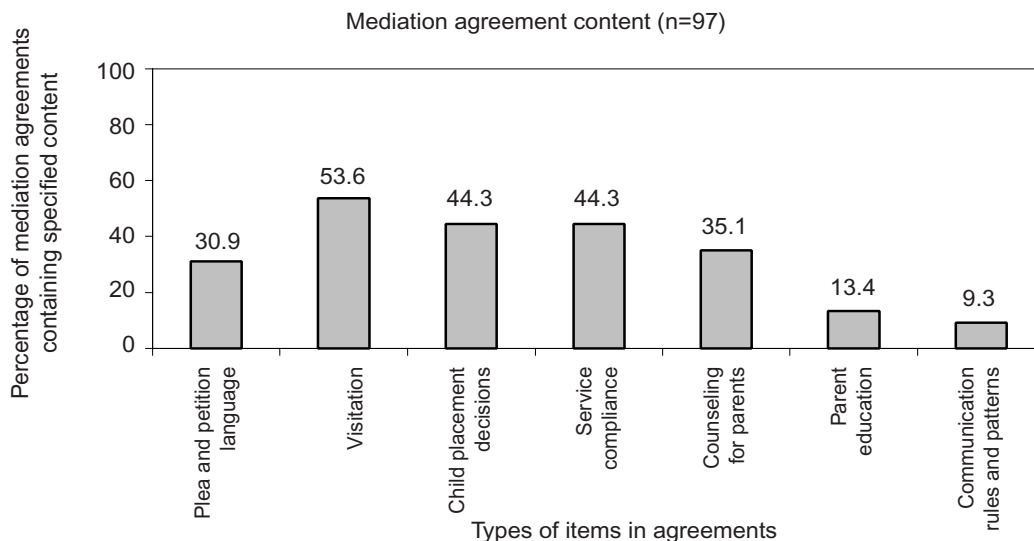


Mediation agreements addressed a range of issues. To identify those issues, a sample of mediation agreements were reviewed and content analyzed (n=97). The number of issues negotiated in mediation sessions ranged from one to 22 distinct issues (averaging seven issues per agreement). In a number of cases, the issues related to the original plea and petition language were a significant part of the

mediation (n=30 cases). With regard to negotiating a case service plan, the highest number of cases addressed issues related to visitation (n=52); followed by child placement decisions (n=43), issues related to service compliance (n=43), counseling for parents (n=34) and parent education (n=13). Several cases addressed communication rules and patterns (n=9).

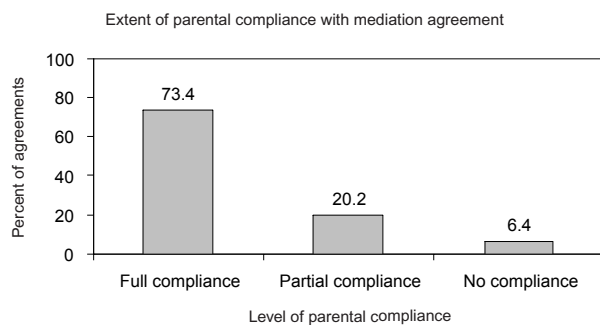
Issues related to service compliance included securing day care, participating in evaluations and assessments, keeping a clean home, seeking and keeping employment, transportation arrangements, safety plans, substance abuse treatment and securing housing.

In 16 cases, there were no mediation agreements although a mediation session took place. These cases illustrate the outcomes for sessions in which there is no written finalized agreement. In six cases, the parties agreed that the issues were fully negotiated and resolved and determined there was not a need for a written agreement. In three cases, there was no written agreement, but the mediator noted there was a clarification of issues. In one case, the family members walked away with a draft of the mediation agreement without signing it; in another case the agreement was not put into writing as the Lawyer Guardian Ad Litem (LGAL) was not in attendance at the mediation



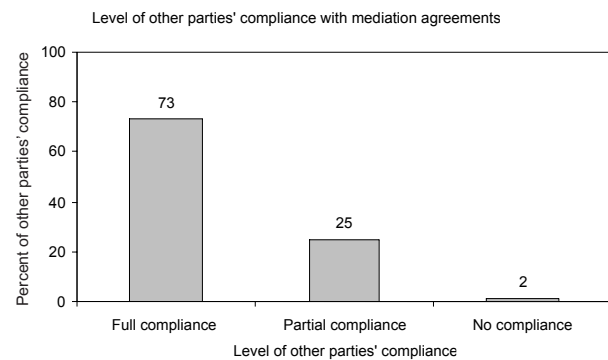
session. In two cases, there was a mediation process but no agreement, and the children were subsequently removed from the home. In three cases, it was not possible to reach an agreement due to the firm, opposing viewpoints of the participants; and for one of these cases, the mental illness of the mother interfered with developing a signed mediation agreement. These cases illustrate that the lack of a written agreement after mediation does not necessarily mean the failure to reach agreement (this failure to agree was the situation in a minority of these cases) and that there may be some positive process elements even when an agreement is not reached (for example, issue clarification, enhanced understanding of issues and perspectives, expression of viewpoints).

Increase in parental compliance is an important outcome for permanency planning mediation. According to PPMP Program records (as noted in supplemental quarterly reports), overall parental compliance was reported to be high within 60 to 90 days of the mediation session. Out of 109 cases with compliance information, 73.4% reported full parental compliance with the terms of the mediation agreement. An additional 20.2% showed partial compliance with the mediation agreement.



Compliance rates for other parties (other than the parents) were also reported in 100 cases. These cases were described as having 73% full compliance, with an additional 25% showing partial compliance with the 60 to 90 days after the mediation was completed.

Because follow-up is done at 60 to 90 days after the mediation, there may be situations in which (a) there is no compliance at the time of follow-up, but there is compliance later, after the follow-up call, i.e., delayed compliance, or (b) there may be initial compliance that turns to non-compliance subsequent to the follow-up, i.e., later non-compliance. Delayed compliance or later non-compliance, may have occurred but would not have been recorded.



The evaluation posed a question about influences on compliance: What relationship exists between case characteristics, disposition of mediation, mediation results and case outcomes for permanency and parental compliance? For example, if non-parent family members are in attendance during the mediation for a particular case, is there a corresponding decrease in time to permanency or an increase in parental compliance?

Parental compliance with mediation agreements was known for 74 mediated cases that had either a full or partial agreement. Correlates of parental compliance were sought by identifying relationships between compliance and reported case data. Reported information included point of referral, result of mediation, court acceptance of mediation agreements, referral source, lengths of mediation, type and number of mediation participants, number of children and hours expended by PPMP Program staff and volunteers. Analysis of parental compliance was related only to the participation during mediation of one group of participants—children.

For cases in which children attended mediation, 40% of mediations had full parental compliance reported. An additional 50% reported partial parental compliance, totaling 90% of mediations. Non-compliance was 10%. In contrast, mediations at which no children were present reported 63% full parental compliance and 15% partial compliance, totaling 78% of mediations. Without children at the mediation, non-compliance was higher at 22%. These differences are statistically significant (chi-sq = 9.936,  $p < .01$ ).

Why was there higher overall compliance when children were present? There were 77 children present in 44 mediation sessions. There are multiple possible explanations:

- It is likely that children who attended mediations were older, and older children potentially can facilitate or inhibit parental compliance with the agreement.
- The child maltreatment severity or type may be different in those cases where children were present at mediation;
- The presence of children might indicate differences in pilot program site family engagement or greater mediator skill or differences in court orders for attendance.

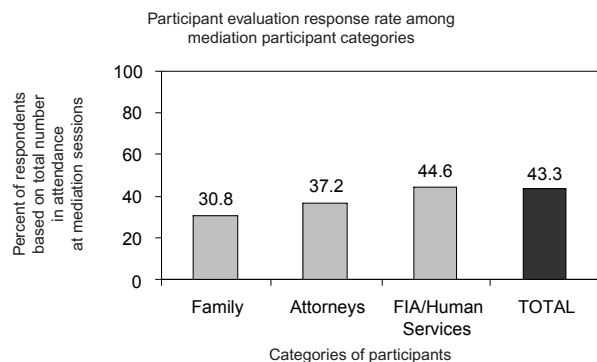
No other significant differences were found between other family member participants in mediation and subsequent parental compliance with the mediated agreement. No significant differences were found between child welfare system participant groups and subsequent parental compliance. No other relationships were found between parental compliance and case characteristics, including: point of referral, result of mediation, court acceptance of mediation agreements, referral source, lengths of mediation, types and numbers of mediation participants and total hours expended by PPMP Program staff and volunteers.

## Participant perceptions of the mediation process

### All participants

Participant perception of a service is an important outcome for any innovation in human service delivery. Participant perception is important in assessing the value and success of permanency planning mediation, as one of the purposes of mediation is to engage stakeholders in the active construction of a plan and the successful implementation of that plan in order to achieve permanency outcomes for children. The assessments reported by stakeholders provide valuable information about the usefulness of mediation. This section reports the participant evaluations submitted by mediation session attendees.

The following figure provides a brief summary of the response rates by each type of participant group. More detailed response rates within each type of participant group are included at the beginning of the sections for each group.



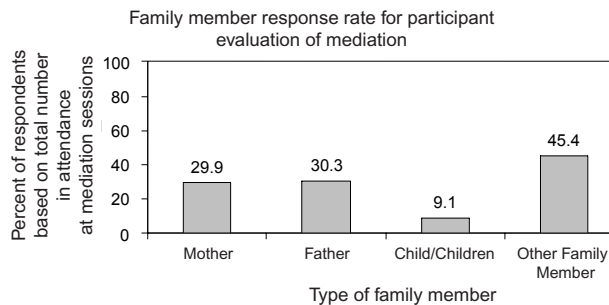
These response rates are consistent with rates of response noted within program evaluations across a variety of human services and child welfare interventions. The overall rates do not constitute a majority of cases; however, they do provide insight into a range of experiences and sentiments; the findings are instructive. Although the content of responses is disproportionately positive, the evaluations also are descriptive of both solidly positive

evaluations from a variety of professionals and family members, as well as some negative evaluations from across the same groups.

There is no agreement about a general standard for satisfaction that constitutes success. In the California study, the project had the goal of 75% of family participants expressing satisfaction. The evaluation reported that this level of satisfaction was achieved. In the Iowa Mediation Project, the evaluation reported that 90% of participants found mediation to be helpful. The Iowa evaluation included all participants—public child welfare case managers, attorneys and family members—in that percentage of helpfulness. In the Iowa study, 16% of the total number of evaluations came from family members. In the Michigan evaluation, 30.9% of respondents were family members.

### Family members' evaluation

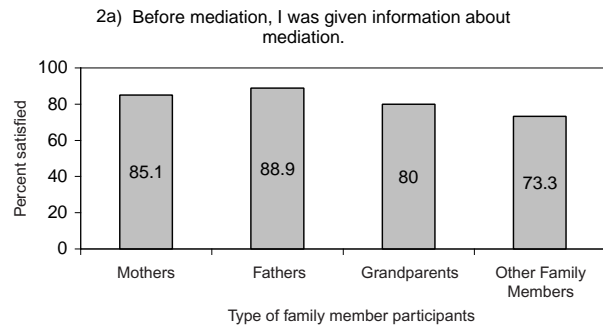
Family member satisfaction was assessed at the conclusion of mediation through participant questionnaires. With the exception of children, one-quarter to one-half of family participants returned completed participant evaluations.



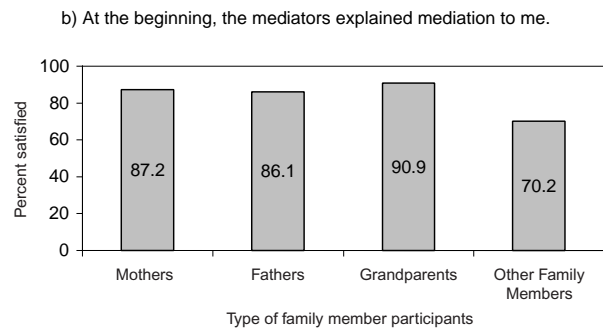
Family members were categorized into four groups; mothers, fathers, grandparents and other family members (including aunts, uncles, adult siblings, family friends and parents' significant others). Children will be discussed later. A review of family member reports with regard to the mediation session(s) resulted in the following conclusions:

1. The great majority of mothers (85.1%), fathers (88.9%), grandparents (80%) and

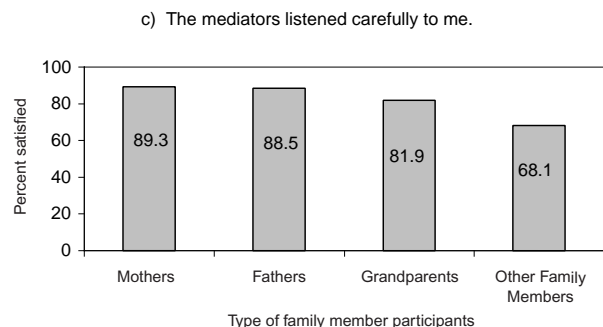
other family members (73.3%) reported they were given information about the mediation before the mediation.



2. The great majority of mothers (87.2%), fathers (86.1%), grandparents (90.9%) and other family members (70.2%) reported that the mediators explained mediation to them at the beginning of the mediation session.

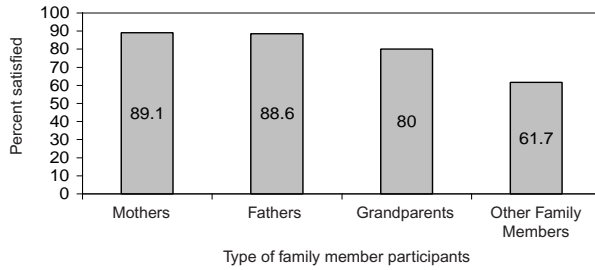


3. The great majority of mothers (89.3%), fathers (88.5%) and grandparents (81.9%) and a majority of other family members (68.1%) reported that the mediators listened carefully to them in the session.



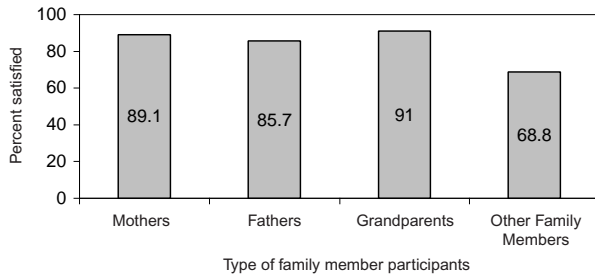
4. The great majority of mothers (89.1%), fathers (88.6%) and grandparents (80%) and a majority of other family members (61.7%) reported that they talked about all of the issues that were important.

d) We talked about all the issues that were important to me.



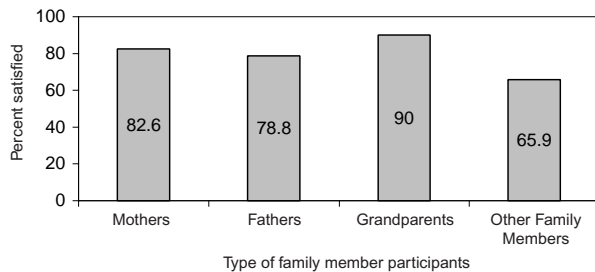
5. The great majority of mothers (89.1%), fathers (85.7%) and grandparents (91%) and the majority of other family members (68.8%) reported that the mediators treated everyone fairly.

e) The mediators treated everyone fairly.



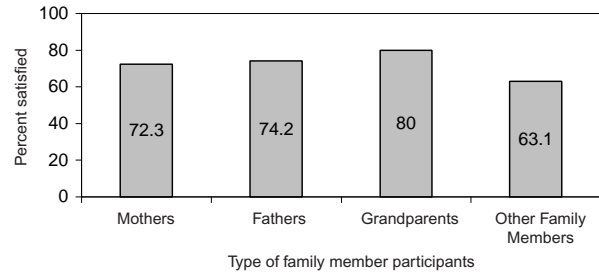
6. The great majority of mothers (82.6%), fathers (78.8%) and grandparents (90%) and the majority of other family members (65.9%) reported that other people at the mediation listened to them.

f) Other people in mediation listened to me.



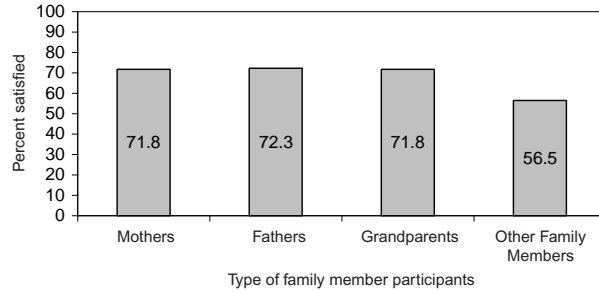
7. Although a majority of family members reported other people in mediation took them seriously, the percentages reporting this were lower compared to other aspects of the mediation (mothers 72.3%; fathers 74.2%; grandparents 80%; and other family members 63.1%).

g) Other people in mediation took me seriously.



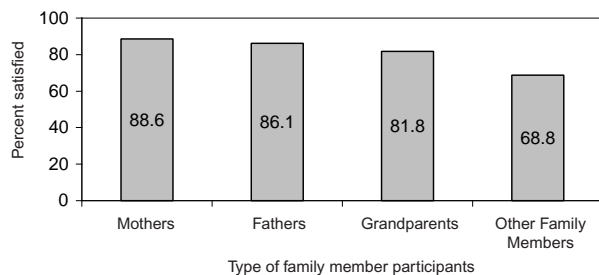
8. Similarly, a majority reported having a better understanding of others' points of view (mothers 71.8%; fathers 72.3%; grandparents 71.8%; other family members 56.5%).

h) I have a better understanding of others' points of view.

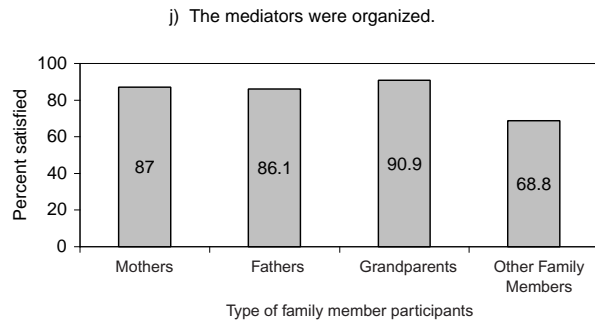


9. The great majority of mothers (88.6%), fathers (86.1%) and grandparents (81.8%) reported that the mediators did not take sides. Other family members also reported that the mediators kept a neutral stance (68.8%).

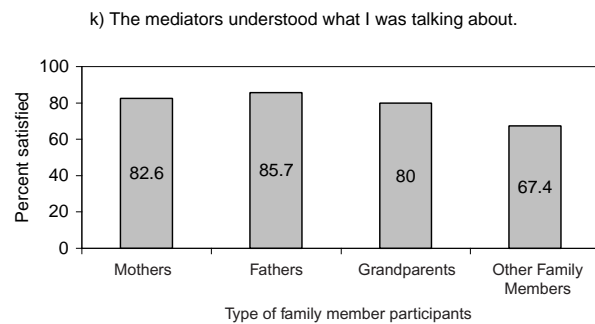
i) The mediators did not take sides.



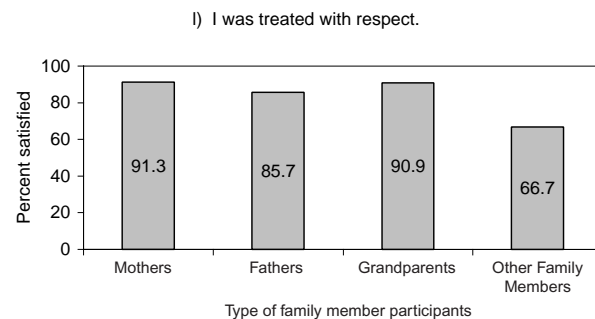
**10.** The great majority of mothers (87%), fathers (86.1%) and grandparents (90.9%) reported that the mediators were organized; as did 68.8% of other family members.



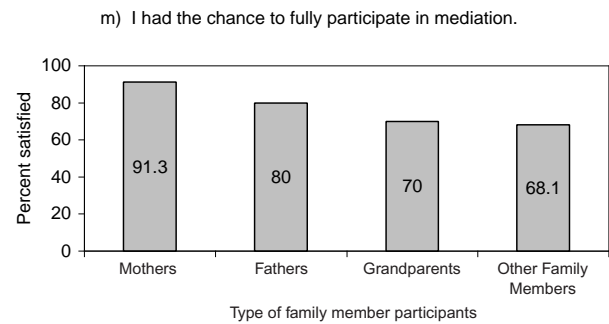
**11.** The great majority of family participants reported that the mediators understood what the family member was talking about (mothers 82.6%; fathers 85.7%; grandparents 80%; and other family members 67.4%).



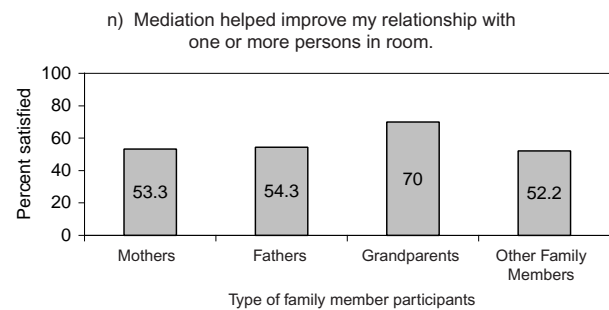
**12.** The great majority of mothers (91.3%), fathers (85.7%) and grandparents (90.9%) reported they were treated with respect. The majority of other family members reported being treated with respect (66.7%).



**13.** Mothers reported a high sense of full participation in the mediation (91.3%). The majority of fathers (80%) and grandparents (70%) also reported full participation, but in lower percentages than other categories. Other family members reported comparatively lower, although still substantial, participation rates (68.1%).



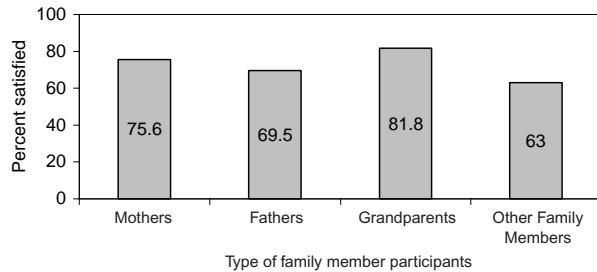
**14.** When asked if the mediation helped improve one's relationship with one or more persons in the room, 53.3% of mothers agreed; 54.3% of fathers; 70% of grandparents; and 52.2% of other family members. Sixteen percent of other family members strongly disagreed that mediation helped improve relationships; 6.7% of mothers strongly disagreed (versus 2.9% of fathers and no grandparents).



**15** The majority of family participants stated that the mediation helped with issues they were concerned about (mothers 75.6%; fathers 69.5%; grandparents 81.8%; and other family members 63%).

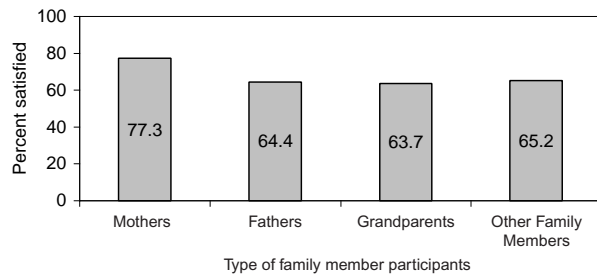


o) Mediation helped me with issues I was concerned about.



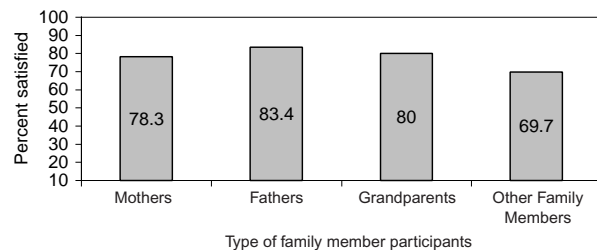
**16.** The majority of family participants reported that the result of the mediation was fair (mothers 77.3%; fathers 64.4%; grandparents 63.7%; and other family members 65.2%).

p) I feel that the result was fair.



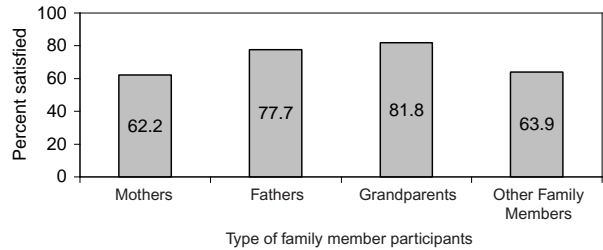
**17.** Whether or not an agreement was reached, 78.3% of mothers, 83.4% of fathers, 80% of grandparents and 69.7% of other family members reported that they understood what they needed to do next.

q) Whether or not agreement was reached, I understand what I have to do.



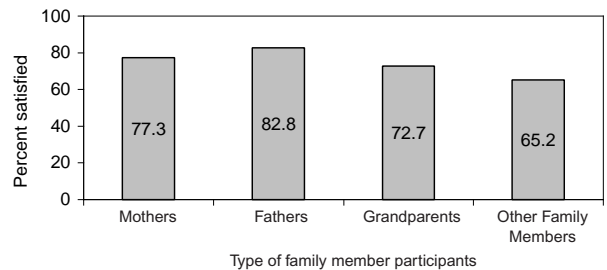
**18** Whether or not agreement was reached, 62.2% of mothers, 77.7% of fathers, 81.8% of grandparents and 63.9% of other family members reported that they understood what other people will do next.

r) Whether or not agreement was reached, I understand what others will do.



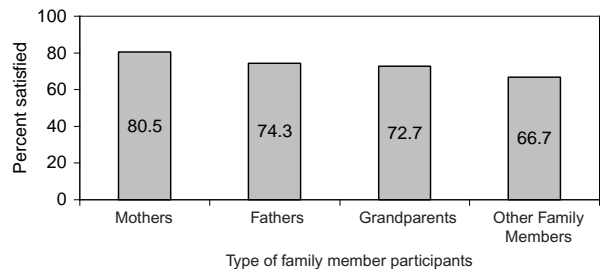
**19** When asked if they would use mediation again, 77.3% of mothers, 82.8% of fathers, 72.7% of grandparents and 65.2% of other family members agreed. Those most strongly disagreeing were other family members (19.6%) and mothers (6.8%).

s) I would use mediation again.



**20.** When asked if they would recommend mediation to someone else, 80.5% of mothers, 74.3% of fathers, 72.7% of grandparents and 66.7% of other family members responded affirmatively. Those most strongly disagreeing with this recommendation were other family members (20%) and grandparents (9.1%).

t) I would recommend mediation to someone else.



In summary, the evaluation of the mediators by family members was generally very positive. Mediators were rated to be good listeners, understanding, providers of information, organized, respectful and neutral.

Mediation, overall, was viewed most positively and strongly by mothers and fathers. As one mother reported:

*"I learned a great deal about acceptance, brainstorming and facing my situation with honor and respect."*

But, even though the great majority of family participants were positive, a small number reported less helpful experiences. In the words of another mother:

*"... by no fault of the mediators, mediation was pointless considering the opinions of the persons involved."*

Overall, the group of 48 "Other family members" (aunts, uncles, girlfriends) reported the lowest rates of satisfaction. Such family members may have felt marginal to the mediation discussion and less able to influence or contribute to the outcome of the mediation:

*"Most of this has to start and end at home with Dad and son."*

Another explanation is that the mediator might not have known that some of the family members would be attending the mediation session.

## Children

An additional group of family participants is children. Overall, the cases studied included 77 children in attendance at one or more of 44 case mediations. The inclusion of minor children and youth in mediation is important to address and assess. Only seven participating youth between the ages of 12 and 17 completed satisfaction with mediation surveys. This small

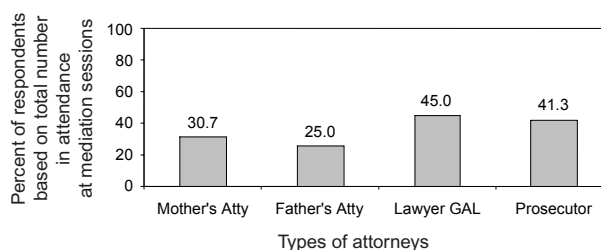
return, calculated as a response rate (9.1%), provides an inadequate representation of child and youth attendance. Therefore, these seven satisfaction measures were withheld from analysis. Future research should address the issue of how best to assess child and youth experience with the child protection mediation process.

## Attorneys

The PPMP Program mediation sessions included a number of attorneys. At the conclusion of each mediation session, attorneys were given evaluation forms to gain their perspective on their mediation experience. These attorneys represented five sets of clients. The highest number of attorneys providing evaluation data were attorneys for the children—Lawyer Guardians Ad Litem (LGAL; n=63). The second most frequent responses came from prosecuting attorneys or attorneys representing the Family Independence Agency (FIA; n=44).

Evaluations were reviewed from 38 attorneys representing the mother in the case; 20 attorneys for the father; and eight attorneys representing other parties.

Attorney response rates for participant evaluation of mediation



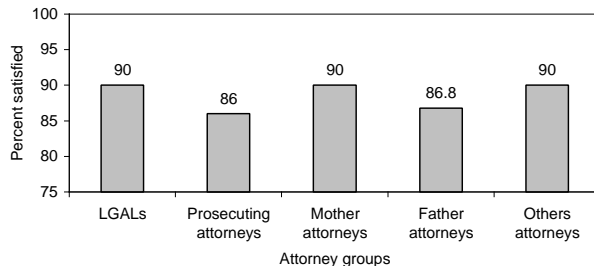
## Attorneys' evaluations

Overall, each category of attorneys described and rated their mediation experience very favorably:

1. Over 94% of all attorneys (except attorneys for fathers=75%) stated that they were given information about mediation before the session began.

2. Over 95% of lawyer guardians ad litem, prosecuting attorneys, fathers' attorneys and other attorneys reported mediation was explained to them at the beginning of the mediation (92.3% of mothers' attorneys).
3. Over 90% of all attorneys reported that the mediators listened carefully to the attorneys.
4. Over 90% of attorneys (except for fathers' attorneys—86.3%) reported that in the mediation, all of the issues important to the attorney were discussed.
5. Over 94% of all of the attorneys (except the fathers'—90.9%) reported that the mediators treated everyone fairly.
6. Over 90% of all attorneys reported that other people listened to them in the mediation session.
7. Over 90% of LGALs, mothers' attorneys and other attorneys reported that other people at the mediation took them seriously. Prosecuting attorneys (86%) and fathers' attorneys (86.8%) were nearly as positive. The prosecuting attorneys were most likely to state that they were not taken seriously (7%).

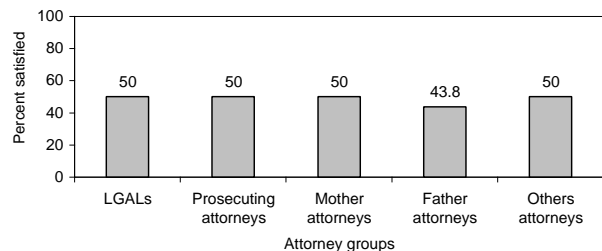
g) Other people in mediation took me seriously.



8. Between 70-80% of attorneys stated that they gained a better understanding of other people's viewpoints through the mediation.

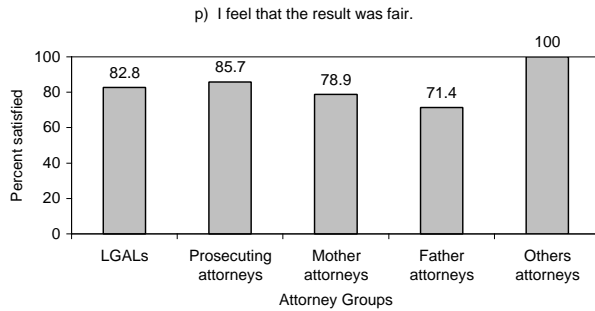
9. Over 94% of all attorneys (except for fathers'—90.9%) stated that the mediators did not take sides during the mediation.
10. Over 90% of all attorneys reported the mediators were organized.
11. Over 94% of prosecuting attorneys, LGALs and attorneys for the mother stated that the mediators understood what the attorneys were talking about. Only slightly fewer attorneys for the father (85.7%) and other attorneys (87.5%) also felt understood by the mediators.
12. Over 90% of all attorneys reported they were treated with respect (9% of attorneys for the fathers reported they were not respected).
13. Over 90% of all attorneys reported they had the chance to fully participate in mediation (9.5% of fathers' attorneys disagreed).
14. Approximately 50% of attorneys reported the mediation helped improve relationships with one or more persons at the mediation. Fathers' attorneys were less likely to make this assessment (43.8%) and were most inclined to state that relationships were neither improved nor worsened by mediation (56.2%).

n) Mediation helped improve my relationship with one or more persons in room.



15. Approximately 75-80% of all attorneys reported that mediation helped with issues they were concerned about.

**16.** The majority of attorneys assessed that the result of the mediation was fair (prosecutors, 85.7%; LGALs, 82.8%; mothers' attorneys, 78.9%; fathers' attorneys, 71.4%; other, 100%).



**17.** Over 80% reported that they know what they have to do next.

**18.** 80% or more understand what other people will do next, following mediation.

**19.** Over 90% of all attorneys reported they would use mediation again. Attorneys for fathers were least likely to use mediation again, with 90.9% reporting they would use mediation again and 9.1% indicating strongly that they would not use mediation again. LGALs were most positive.

**20.** Over 90% of all attorneys reported they would recommend mediation to someone else, with LGALs most positive and fathers' attorneys most likely not to recommend (again, the vast majority responded positively).

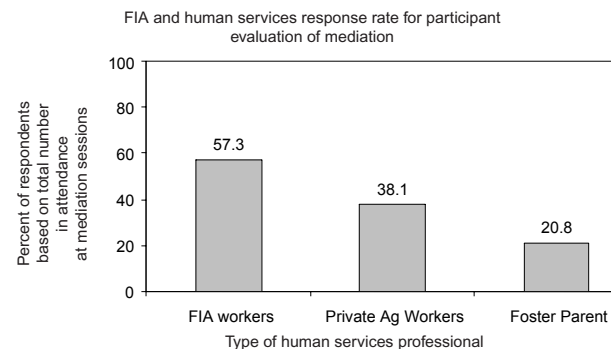
Attorneys evaluated the mediators very positively, with the great majority affirming the neutrality, listening skills and organizational skills of the mediators, regardless of the attorney's role or client. Even those with the least positive assessment of mediation—fathers' attorneys—still overall rated the mediation process and mediators' skills positively. Mediation was less often reported to build or improve relationships among participants. Although the great majority rated the experience

with mediators positively, the overall assessment of mediation's helpfulness and fairness was rated slightly lower yet still positive. Nearly all attorneys, particularly LGALs, reported they would use mediation again and would recommend mediation to others.

## Relationship to child welfare

In permanency planning mediation, the role of the Children's Protective Services worker or foster care worker is crucial as these professionals oftentimes have significant responsibility for the assessment of the safety and well-being of vulnerable children. The child welfare worker's overall goal for children includes achieving permanency in a timely manner and assuring that the child has a safe home with caregivers committed to the child's well-being. Consequently, child welfare workers are key participants in mediation.

A high number of child welfare professionals attended mediation sessions. Participants included: caseworkers from the Michigan Family Independence Agency (n=98); FIA children's services supervisors and other children's services employees, including delinquency, foster care, adoption workers (n=9) and other unspecified FIA employees (n=3); caseworkers and others from private, or voluntary, child welfare agencies and public/private K-12 education (n=31); and foster or adoptive parents (n=15). Their assessments of the mediation process and outcome were gathered immediately after the mediation sessions were completed. Response rates varied widely.



## FIA caseworkers

With regard to the PPMP Program's relationship with FIA caseworkers, caseworkers rated the mediators and the mediators' skill and conduct of the sessions very highly. Caseworkers reported they were given information before the mediation (92.8%); mediation was explained at the beginning of the session (93.8%); mediators listened carefully to the caseworker (92.7%), understood the FIA worker's views and position (90.8%), treated everyone fairly (92.9%), were neutral (91.8%) and were organized (91.9%). Most likely at least a partial reflection of the FIA caseworkers' assessment of the mediator, 92.8% stated that they were treated respectfully at the mediation session (6% stated they were not respected).

With regard to their experience at the mediation, FIA caseworkers reported that the issues that were important to them were talked about (88.3%); they stated that other people listened to the FIA worker (88.7%); and that other people at the mediation took the FIA worker seriously (86.4%). The great majority of workers stated they fully participated in mediation (91.8%). Most workers noted that whether or not there was an agreement as a result of the mediation, there was an understanding about what the worker had to do next (87.4%) and what other people had to do next (89.5%). With regard to the outcome of the mediation, 82.6% judged that the result of the mediation was fair (7% did not think the outcome was fair).

The majority of FIA caseworkers (76.3%) stated that they gained a better understanding of others' points of view at the mediation (9.3% stated they did not gain a better understanding through the mediation sessions). Sixty-three percent of FIA caseworkers reported that their relationship with one or more persons at the mediation improved through the mediation.

When asked if they would use mediation again, 90.7% of FIA caseworkers reported that they would; 7.3% said they would not. With regard to recommending mediation to some-

one else, 91.7% of workers said that they would recommend mediation; 5% said they would not recommend mediation.

## Other professionals

In addition to FIA caseworkers, other FIA children's services workers provided their evaluation of mediation based on having attended a mediation. These other FIA workers were comprised of children's services supervisors and other children's services employees, (n=9) and other unspecified FIA employees (n=3).

The majority of other FIA employees (64%) at the mediation and other non-FIA human service professionals (84%) reported they were given information about the mediation before the mediation. Slightly higher numbers of other professionals reported having mediation explained by the mediators at the beginning of the mediation (67% and 87%).

With regard to the assessment of the mediators, the majority of other professionals stated that the mediator listened carefully to them (FIA 67%; other 90%). Almost one-third of other FIA workers (not including caseworkers) stated they were not listened to carefully (compared to 6% of caseworkers). The assessment of mediators with regard to treating everyone fairly, mediator neutrality, mediator understanding of the other professional and mediator organization reflected similar assessments. Approximately one-third of FIA employees (not including caseworkers) reported a negative response to the mediator. When asked if they were treated with respect, a slightly higher number responded positively (75%). Other non-FIA human service professionals generally reported very high satisfaction with the mediators and a sense of respectful treatment (90%).

With regard to the outcome of the mediation, 67% of other FIA professionals (in contrast with 83% of caseworkers) stated that the result was fair; 33% did not think the outcome was fair. For other professionals, 77% stated

the outcome was fair. With regard to using mediation again, 67% of other FIA professionals (in contrast with 91% of caseworkers) stated they would use mediation again; 84% of other professionals said they would use mediation again. These results were exactly the same with regard to recommending mediation to someone else.

Overall, FIA caseworkers (CPS and foster care) were strongly positive about the mediators, the mediation process and the outcome of the mediation sessions. This overall satisfaction was also expressed by the other human service professionals at the mediation. These two groups represented 91% of the child welfare and human service professionals at the mediation (non-legal, non-family participants).

The majority of professionals from FIA, who were not caseworkers and who attended the mediation, reported a very positive assessment of the mediation. However, in rather stark contrast to other mediation participants, one-third of these professionals consistently reported a measure of dissatisfaction. Why were these professionals less satisfied? There may be a number of explanations:

- This was a small number of respondents, so a small number of discontented people would produce a larger effect;
- These persons may not have a central, direct role in the case, so they may have less of a relationship with the participants at the mediation and may have been less informed about the case and the mediation due to their more tangential role in the work with the family;
- With multiple participants in a mediation session, mediators may need to prioritize their attention to the direct participants in the conflict and the agreement, others may feel more marginal to the discussion and agreement; and

- Other factors that could be identified through further study. Other studies have noted that there is considerable resistance to the concept of mediation among many professionals, so a negative predisposition toward mediation by some professionals would not be surprising.

Perhaps the more important findings from the Michigan experience are the high rates of satisfaction expressed by caseworkers and most other child welfare and other human service professionals.

### **Foster and adoptive parents**

The participants who reported the least satisfaction with mediation were persons associated with the child welfare system through their important role as foster parents and adoptive parents. Based on feedback from 15 foster and adoptive parents:

- More reported gaining information about mediation before and at the beginning of mediation (73%) than did other FIA professionals.
- Foster and adoptive parents also were more likely to report that the mediator listened to them, understood them, were neutral and organized (73%).
- However, although a majority reported that other people listened to them and took them seriously (60%), this was the lowest participant rate of satisfaction.
- Most foster and adoptive parents reported they did not gain a better understanding of others' points of view (60%).
- Nor did they understand what other people were to do next after the mediation (53%).

- The majority reported that mediation did not help improve relationships with one or more persons in the room (57%).
- The majority (57%) reported that mediation helped with issues the foster or adoptive parent was concerned about, but 36% disagreed.
- The majority (67%) stated the result of the mediation was fair.
- Sixty percent (60%) reported they would use mediation again, and 60% would recommend mediation to others.

Again, the majority of foster and adoptive parents reported a positive assessment of the mediator and generally positive experience and outcome. However, compared to child welfare agency workers and to family members, foster and adoptive parents were the least likely to be satisfied with mediation. Why? There are several possible explanations:

- Similar to the satisfaction findings for other FIA professionals, there was a small number of respondents, so the less positive experiences of a few parents would produce a greater effect;
- Similarly, foster and adoptive parents may have felt (and may have been treated) as more marginal to the discussion and agreement than other mediation participants;
- Foster and adoptive parents may have more complicated relationships with family members;
- Foster and adoptive parents have a complex role and status as persons who are

committed to and presumably to some degree attached to children but, by definition, children in foster care or adoptive placement are not in a permanent placement. Some foster and adoptive parents may be hopeful or ambivalent about becoming a permanent home for the children in their care; and

- Other factors not determined.

### Comparative satisfaction across stakeholder groups

The participant evaluation items were examined for reliability and found to have an acceptable level of internal reliability\* (Cronbach's  $\alpha = .985$ ). Each of 20 questions about their experience of mediation and the mediators used a five point scale from strongly disagree to strongly agree. A total score was calculated for each respondent. Computed scores across the 20 items on the evaluation form ranged from a low of 20 to a high of 100. The mean level of satisfaction based on 444 participant evaluations was 81.4 (sd=19.7). The most frequent total score value was 100, accounting for 10.6% of the respondents.

The mean satisfaction of family members was compared to the mean satisfaction of attorneys and child welfare personnel. The three groups were statistically significantly different, as revealed by a one-way analysis of variance ( $F=12.4$ ,  $df (2,441)$ ,  $p < .001$ ). Further analysis of paired group comparisons (using a Scheffe post-hoc test) found that family members (mothers, fathers, grandparents and others, taken together) had a significantly lower average satisfaction ( $M=75.1$ ) than either group of professional participants, attorneys ( $M=86.1$ ) and child welfare/human services professionals ( $M=82.5$ ). Taken as whole, family members had an overall mean rate of satisfac-

\*Cronbach's alpha values between .60 and 1.00 indicate that the questions measure related aspects of the same phenomenon and can be combined by adding them together to create a total score.

tion of 75.1 (as compared to 86.1 for attorneys and 82.5 for child welfare personnel).

**Comparison of average evaluation ratings for mediation participant stakeholder groups**

Stakeholder groups	Means	Group sizes
<b>Full sample</b>	<b>81.4</b>	<b>444</b>
Family members	75.1	141
Child welfare/human services/education	82.5	147
Attorneys	86.1	156

Although comparatively lower than professionals, the rate of satisfaction of family members was high and at least matched the goal of the California study. An examination of specific categories shows that the rate of satisfaction among parents (mothers and fathers) was even higher.

No routine collection of satisfaction or participant assessments of their experiences exists for other court-related services; it is not possible to compare these satisfaction rates with family evaluations of other court services. However, the rates of satisfaction reported in this study are comparable to the satisfaction that family members express concerning other non-adversarial, conflict resolution innovations such as family preservation or family reunification programs. Satisfaction rates also are comparable, or superior to, rates of satisfaction reported by other mediation evaluations.

**Public child welfare stakeholder questionnaires**

To complete the picture of the larger public child welfare perceptions of permanency planning mediation, a brief questionnaire was used. Questionnaires were sent to all local county FIA offices affiliated with the PPMP Program sites and family courts. Letters requesting input from each county FIA and a copy of the instrument were sent by email and fax to nine FIA offices. The questionnaire posed five questions regarding FIA’s thoughts and experiences with the PPMP Program. The series of open-ended questions assessed supervisor or administra-

tor perceptions of child protection mediation effectiveness.

1. What is your perception of the effectiveness of mediation in child protection/ foster care cases?
2. In your opinion, does mediation have an effect on the time it takes for a child to reach permanency in comparison to cases that are not mediated?
3. What impact, if any, has child protection mediation had regarding parental compliance with court orders?
4. What is your perception of the impact, if any, that mediation has had on relationships between the child welfare system stakeholders in your community, i.e., FIA, families, foster families, private agency workers, prosecutor’s office, LGALs, other attorneys and the court?
5. What advice would you give another FIA county office that was interested in implementing the Permanency Planning Mediation Program?

These questions mirror the questionnaires sent to judges in the same communities. Responses were received from five FIA offices, and respondents held various office positions. Questionnaires were returned by two county directors, two children’s services supervisors and one unidentified position.

With regard to FIA perceptions of using mediation in child protection cases, three respondents believed permanency planning mediation was effective.

*“Of the cases mediated, there appears to be enhanced communications between FIA and the parents as well as other players at the table. Having everyone in the room with skilled mediators allows everyone to get their issues expressed in a fairly “safe”*



*environment, and the participants are more likely to actually hear what is being said."*

*"Very effective, it allows both the agency, family and parties involved to reach an agreement over the petition. Often parents will agree to a petition after the wording of the petition is changed to suit all parties."*

*"My perception is that it has been effective in allowing all parties to be heard and all issues to be covered. The facilitators are knowledgeable, and the court has been cooperative."*

Two respondents indicated that mediation may be more appropriate or effective for foster care cases.

*"In foster care cases, it has been effective by providing a safe forum to discuss issues that would take too long to discuss in a court hearing."*

All respondents believe that, at least for some if not many cases, mediation was effective. Effectiveness was uniformly attributed to the opportunity afforded by mediation to have all parties discuss issues and concerns in a safe or neutral space that allows time for discussion and agreement or willingness. One respondent described mediation in this way:

*"One of the main things I think it does is to assist in educating parents on the court system and how things work."*

With regard to time to permanency, one respondent indicated that, having only limited experiences with the PPMP Program:

*"Mediation did not facilitate the time to reach permanency."*

Two additional responses indicated that their experiences had been too few in number, or that not enough time had passed to warrant

a response. One of these respondents also indicated that an effect on time to permanency was shown for only 25% of cases that had mediation. This supervisor did indicate that mediation:

*"has given parties an opportunity to have their questions answered and concerns addressed. There have been parties that once they had a more clear understanding of what was expected of them who would then be more cooperative and work better with others or realize that they weren't capable of the demands/expectations."*

The perceived impact of mediation on parental compliance was mixed. The uniqueness of responses warrants sharing the exact responses.

*"This depends on the case, those that are very compliant would have probably have been compliant either way."*

*"Some parents are not compliant even though they attended mediation and agreed to the decisions."*

*"...the parents remain uncooperative, though they verbalized a willingness to comply with the recommendations in mediation. They continue to be resistant."*

*"There seems to be more compliance with court orders once the parents are able to recognize that FIA is not "out to get them" or just being mean to them. Once the communication lines are open, the plan of action to achieve a safe return moves forward."*

*"At pre- and post-dispositional hearings, we have outlined what the agency and the courts expect, this has been very valuable in cases that are brought to the attention of the court. It makes everyone aware of the expectations of the family. It allows all parties to have input or court orders and increases the*

*families' compliance with orders."*

*"... all mediation sessions provide an opportunity to have clarity on expectations which does have an impact."*

These comments reflect an overall sentiment that the PPMP Program is effective in at least some cases. The impact of the PPMP Program is noted as being in regard to enhancing communication and understanding among parties. Despite a mixed response to the effectiveness of the PPMP Program for decreasing time to permanency or its effect on parental compliance, FIA offices acknowledge increased understanding as a benefit of using mediation in child protection.

With respect to the impact of permanency planning mediation on relationships among child welfare system stakeholders in their community, respondents identified the importance of cooperation among the involved agencies. Several individuals indicated that the PPMP Program had improved or built upon relationships among professionals involved in child welfare in their communities. Without details, one noted that good relationships had already existed in the community and that, in some instances, these relationships became strained after one or more mediations. One respondent shared a more detailed answer:

*"[Our] County has not had that many cases involved in PPMP, and my opinion is based on the outcomes and progress that [a neighboring] County has made and my own personal experience as a CPS and Foster Care Specialist in three counties. I recall that the most successful resolutions, both return home and stable permanent placements, were achieved only when there was a solid working relationship among all the parties listed and the level of communication was high. PPMP offered that to families to help them gain a better understanding of what is happening and why. It is also important for public and private agency*

*staff to understand that PPMP does not decide whether abuse/neglect has occurred, it helps to determine what happens to the child and family after that determination is made by FIA. Being willing to listen to all parties and opinions about the best interest of the child and family is strength-based and solution-focused, not being "right."*

Finally, with regard to advice they would offer to another FIA office interested in implementing permanency planning mediation:

*"I would advise them to elicit the support and commitment of the court."*

*"Make sure that the funding source is stable and secure. Our PPMP Program is constantly in danger of losing funding and losing the gains made. The SCAO should recognize this need and fund the projects accordingly. We have a great relationship with our [local CDRP] program, and we benefit from an effective coordinator. It's important to work closely with an independent and impartial mediation service, and this is a project that cannot work if one of the players oversees it. This helps parents feel they are equal partners and players."*

*"Everything is positive, mediation saves time, energy and money. I have nothing but positive statements about mediation."*

*"Take the opportunity to use the program as a means to resolve things that the court doesn't have time for. It is an excellent method of getting parties together to arrive at solutions aimed at bringing the case to permanency and minimizing confusion on gray areas."*

*"Give it a try!"*

The importance of having the support and/or cooperation of other stakeholders, such as the court and attorneys, was implied

or directly noted across the five questions answered by responding counties. Overall, public child welfare workers, supervisors and administrators perceived permanency planning mediation as a positive service with good results in terms of parent understanding and participation and as a cooperative forum for stakeholders to support family participation and compliance in achieving timely permanency for their children.

### Local program impact

Interviews with PPMP Program coordinators and other CDRP staff provided insight into the implementation of child protection mediation in the communities and judicial circuits served by the seven PPMP Program sites. CDRP Centers described the implementation of their programs across as much as a three-year time span between program startup and evaluation. Their reports included lessons they had learned, things they would do differently, lessons they learned about introducing and providing a PPMP Program, things they would do again or would recommend to other agencies planning to implement a similar program in their own community.

The predominant and most widely shared observation concerned the importance of having at least one judge to champion the use of permanency planning mediation. Without a judge willing to make referrals to mediation and compel all parties to participate in good faith, the implementation of a PPMP Program was described as difficult, at best, and, more often, as nearly impossible. Having the support of other key court personnel, i.e., court administrators, court clerks, was also described as extremely important or helpful. The judges' support was essential.

All programs had a multi-stakeholder committee or group that met a number of times throughout each year. These groups were described as critical for cultivating ongoing support for the PPMP Program within local

child welfare systems. These groups provided PPMP Programs the opportunity to orient new professionals, e.g., newly-elected judges, prosecutors, court-appointed attorneys and public/private child protection administrators and offer routine review of the purpose and uses for a PPMP Program within each sector of the child welfare system. The integrity of these groups and stakeholder commitment to making alternative dispute resolution a permanent, accessible aspect of each community's child welfare system, were described as necessary preconditions for successfully implementing a PPMP Program.

Successful maintenance of a PPMP Program within the child welfare system was dependent upon regular contact of PPMP Program coordinators with each stakeholder group and individual judges. Repeat participation in mediations also was described as an important means for institutionalizing the use of a PPMP Program and obtaining referrals from non-court sources, such as the prosecutor's office or foster care workers.

All programs described challenges to the implementation and expansion of the PPMP Program. Although specific barriers varied by community and over time, a common thread indicated recurring obstacles. Since prosecutors and judges are elected officials, turnover in the judiciary and prosecutor's office presented an ongoing challenge to the survival and growth of a PPMP Program in any given community. In addition, the high turnover of child welfare workers within the public child protection sector (CPS and Foster Care) presented a challenge since new, often young, inexperienced workers, continually were coming into the local system. Turnover among child welfare supervisors and administrators also affected the use and development of the PPMP Program.

These two realities, one political, the other service-based, were referenced widely by the PPMP Program sites. Each site was able to describe either successful activities or procedures they followed and would use again, or

things they would do differently if they could implement the program over again. These suggestions will be compiled and appear in a subsequent description of PPMP Program best practices based upon the Michigan experience.

An additional picture of the local impact and connections related to mediation can be provided through an eco-map—a diagrammatic representation of mediation center relationships with community stakeholders. (See Appendix C.) Five out of seven PPMP Program coordinators (n=5) reported on the existing relationship between their program and various sectors of the child welfare system in each county they serve. Two programs did not have a coordinator available to complete the assessment. These five programs served and reported on relationships in nine different counties.

The chart below summarizes the nature of relationships within the nine communities by child welfare stakeholder groups within local child welfare systems. A solid majority

of programs described strong positive relationships with each stakeholder group. The next most common type of relationship is described as either mixed positive and negative or non-interactive. There were no reports of strained or negative relationships with any of the courts, legal system professionals or child welfare workers in public and private agencies.

### Court perceptions of the mediation process

A survey of Michigan family court judges (n=9) with some experience with mediation yielded a judicial perspective on permanency planning mediation. Questionnaires were sent to judges in the courts that have a PPMP Program to which they can refer cases for mediation. The brief survey contained seven open-ended questions, which were emailed and faxed to the identified courts. Judges replied by email, fax and postal mail. The

**Frequency for the reported nature and strength of stakeholder relationships between PPMP programs in nine communities, as reported by PPMP coordinators at five program sites**

Community child welfare system stakeholder groups	Nature and strength of relationships between PPMP program and indicated stakeholder groups			
	Strong, positive relationship	Mixed or no relationship	Tenuous, strained relationship	Stressful, negative relationship
Families Involved with Child Welfare Parents Relatives	9 8	1		
Court/Legal System Family Division Court Prosecutor's Office Lawyer Guardians Ad Litem Attorneys for Parent(s) 1 N/A	8 9 8 8	1 1		
Child Welfare Workers Public CPS Public Foster Care Child Welfare Agencies 3 N/A Foster Parents CASA 2 N/A	9 9 6 8	1 7		

response rate (90%) was high. Nine out of 10 questionnaires were returned.

Judges were asked to respond to the following questions:

- What is your perception of the effectiveness of mediation in child protection cases?
- In your opinion, does mediation have an effect on the time it takes for a child to reach permanency in comparison to cases that are not mediated?
- What impact, if any, has child protection mediation had regarding parental compliance with court orders?
- What is your perception of the impact, if any, that mediation has had on relationships between the child welfare system stakeholders in your community, i.e., FIA, families, foster families, private agency workers, prosecutor's office, LGALs, other attorneys and the court?
- Do you perceive that there are cost or time savings when mediation is used in child protection cases?
- At what point/event do you consider a case has achieved permanency?
- What advice would you give another court that was interested in implementing the Permanency Planning Mediation Pilot Program?

Levels of experience with permanency planning mediation varied approximately from one to ten referrals in the lower range and 24 to 48 referrals in the higher range of experience. Extent of experience did appear to be related to judicial perceptions of permanency planning mediation; greater experience corresponded to more positive endorsements and assessments of permanency planning mediation with regard

to effectiveness, parental compliance, cost effectiveness and overall utility. Responding judges provided the following assessment of mediation:

With regard to **effectiveness**, four judges noted that the PPMP Program was *very effective*. This effectiveness was particularly noted in moving cases from contested adjudication to pleas; in breaking down barriers and promoting less adversarial decision-making; and in promoting full discussion and attempting to find their (family) own solutions. One of these judges noted a PPMP Program can completely resolve a case, resolve specific issues in a case, or lead to a "delayed impact," with agreements reached a short time after mediation. Another judge noted that mediation is effectively used routinely and is requested by contract attorneys.

Three judges categorized mediation as *somewhat effective*—more effective than some people thought but not a cure for all cases; some successes but expensive due to attorney time; and some positive results and some negative results. Another judge stated that mediation had not been effective due to resistance from child welfare professionals.

With regard to **mediation's effect on time to permanency**, five judges answered there was a *positive effect* by engaging families in timely decision-making (rather than waiting for court dates) and removing emotional obstacles and promoting cooperation. One judge noted it affects time positively only if the parties reach a mediated agreement. One of these judges noted that in some cases, people who fail to achieve timely permanency would likely fail regardless of the circumstances. Two judges noted particular points of time when mediation was effective in achieving permanency:

*"For cases in which children will return to their parents, mediation can speed up the process by avoiding adjudication or negotiating conditions of the child's return home. For cases involving a request to terminate parental rights, mediation can avoid the*

*delays involved in conducting a hearing on a termination petition and more importantly, avoid the time consumed to resolve the appeals that often follow a termination."*

*"Primarily by shortening the early resolution by resolving adjudication and dispositional issues at the same time, mediation can cause a gain of as many as 90 days of services in cases adjudicated."*

One judge indicated that it was not possible to tell if mediation affected time to permanency. Two judges responded that mediation did not affect time to permanency.

With regard to **mediation's impact on parental compliance**, five judges noted that *mediation increases parental compliance* as the process enhances parental understanding of the plan and its importance. Two of these judges noted that the agreement provides a solid basis to remind parents of the plan elements and re-establish compliance when necessary. One judge was uncertain, one judge had no information available for comparison, and one judge said that mediation does not have an impact on parental compliance.

With regard to mediation's **impact on the child welfare system**, four judges noted *a positive impact attributable to an enhanced spirit of cooperation and lessening of confrontation* and antagonism between caseworkers and family members and between caseworkers and attorneys. Two judges observed no impact on the child welfare system; one judge was uncertain; and one judge noted that there was little impact because good working relationships already existed.

With regard to **cost savings**, four judges stated that *mediation results in cost savings*. These savings were attributable to fewer attorney hours (hence, lower fees), fewer foster care days, fewer trials, avoiding unnecessary hearings and fewer hearings as plea and dispositional issues take place in one hearing. The two themes were that costs are lessened due to a reduction of court costs:

*"I believe the process routinely results in huge savings in court time and in attorney fees...avoiding a contested adjudication saves \$7,000-\$10,000 in attorney fees. Avoiding a contested termination and appeal saves another \$10,000-\$15,000."*

*"Each of these hearings has at least a lawyer, guardian ad litem, plus one, two or three other court-appointed attorneys. The savings can be significant."*

Or due to reduction in length of placement for children:

*"The most important time savings is getting a dispositional order in place sooner to allow for a full year of services before the permanency planning hearing."*

One judge said that there was no cost savings; one said that hadn't been the court's experience yet; one stated it was difficult to say due to the incomplete implementation of mediation; one said there were not savings in regard to court time, but there were savings, when agreements were reached, as the length of out-of-home placements was reduced.

As noted earlier, there are **differing permanency definitions** among professionals and across sectors of child welfare systems. Judges were asked to describe their own definition of permanency in order to document the variety of judicial definitions. With regard to the point at which permanency has been achieved, there were a range of responses: when a child is returned home or rights have been terminated; when a case is closed; when there is a return home and a monitoring period has ended; return home, guardianship, longer-term foster care, or termination and adoption; when the child is placed in a situation that is intended to be permanent; there are many facets to permanency—it is specific to each case.

When asked what **advice would you give to other courts** with regard to mediation, judges replied:

*“Talk to judges involved.”*

*“Contact a judge who is using it....”*

*“Even though it seems repugnant to abuse/neglect scenarios, review the materials on the program and different points it can be used and give it a try.”*

*“Be very detailed in the planning with concrete guidelines for length of time of mediation and for timing of the mediation case.”*

*“Put resources elsewhere.”*

*“Do a better job of educating all the players before beginning, so they are all willing to use the process.”*

*“Ignore the initial negative reaction by attorneys and social workers.”*

*“Assure attorneys that the court will not force mediation to avoid trials.”*

*“Design a system that assures confidentiality of the mediation process.”*

The majority of judges reported positive experiences and assessments of mediation. Several expressed a mixed assessment. Each judge provided advice to other courts based on their experience.

### Cost and time implications

Pioneering programs aim to demonstrate cost savings over expenses associated with traditional approaches. Most child protection mediation programs claim they result in significant cost savings for courts. However, it is sometimes difficult to be precise about this savings. There is also the risk that legitimate expenses would be overlooked or other benefits to the court would be left out of the picture. This discussion will describe the time associ-

ated with the PPMP Program and present an assessment of costs.

In Michigan, the average length of a permanency planning mediation session was three hours. This length of time ranged from 30 minutes to seven hours and 45 minutes. The average amount of time that paid staff spent on a mediation case was six hours (ranging from one hour to 59 hours); and this included intake, assessment, mediation arrangements, paperwork and follow-up. The average amount of time that volunteer mediators spent on cases was five hours (including time in mediation for up to two mediators). There was considerable variability from case to case, but an average mediation case would require approximately 11 hours (including time expended by both paid staff and/or mediator volunteers).

Assessing cost savings requires looking at:

- The cost of mediation versus the cost of traditional court services; and
- Savings for the child welfare system (court and child welfare agency) attributable to reduced length of placements and achievement of permanency for children.

### Court costs

An essential element in computing the cost and cost savings associated with permanency planning mediation is the ability to compute:

- The average cost to the social service or child welfare agency for a contested court hearing;
- The average cost to the judiciary for a contested hearing;
- The average cost to the judiciary for non-contested cases; and
- The average cost of a permanency planning mediation.

In Michigan, with what degree of validity can one calculate:

- The average costs associated with a contested child protection case?
- The average costs associated with a non-contested hearing(s)?
- Can one assume that each mediation case prevents a contested hearing?
- What time and cost savings result from streamlining or expediting other court processes?
- To what extent is it possible to calculate these costs given that the mediation is used at a variety of points in the child protection continuum in Michigan?
- To what extent is it possible to calculate these costs given the variation of court-related expenses from Michigan county to county?

The average cost of a child protective contested hearing for the child welfare agency will include:

- Expenses related to child welfare worker time, i.e., CPS, foster care, adoption workers;
- Expenses related to legal representation for the agency;
- Costs associated with expert testimony or other gathering of evidence; and
- Administrative costs (supervision, travel, staff support, etc.).

The average cost of a child protective contested hearing for the court will include expenses:

- Related to the judge’s (or referee’s) time;
- Multiple attorneys’ time;
- Other court costs; and
- Overhead.

In Michigan, attorney costs differ from county to county and may differ depending on the time/place in the court process, contract terms or other conditions. In the counties included in this evaluation, attorney costs were paid in a variety of ways. Some attorneys received hourly remuneration ranging from \$30 to \$100 per hour.

In other jurisdictions, attorney costs were paid based on per court event fees, ranging from \$225 for attendance at mediation sessions to \$500 for an entire case, i.e., from preliminary hearing to court case termination. These figures are associated with a specific point in time—Fall 2003—and are subject to variation within counties, based on special or individual circumstances and over time (see Note 2).

As attorneys are generally reimbursed for work related to mediation, the cost of mediation with regard to attorney costs is in relation to number of hours as opposed to rate of pay. The average duration of a mediation is three hours. The average hourly rate of pay for a Michigan attorney appointed to a child protective case would range from \$30-100 an hour. For the study purposes, we will assume an average hourly rate of \$55, so the average attorney cost for mediation would be \$165.

In Michigan, standard attorney time for preparation and presentations in an uncontested child protection case and a contested court case have not been determined. Given the same hourly rate as with mediation (not always the case, as in some jurisdictions there is a reduced rate for mediation reimbursement), savings on attorney costs would be realized if the billable hours for an uncontested or contested hearing exceeded, on average, three hours, and if those proceedings



could have been reduced or prevented by mediation.

The cost associated with a Michigan judge has not been determined. To the extent that judge and court room time and personnel are needed on a case that could have been reduced or prevented through mediation, mediation results in cost savings. A contested case and trial could result in a number of hours of judge time. There are additional court and trial expenses (staff expenses, witnesses and expert witnesses, etc.). There are reductions in the demands on a judge's time as a result of successful mediations, but there are no savings in dollar costs because the judge is being paid the same amount to work on other matters. Although not a money savings, this is judicial economy.

Consequently, mediation program savings = judiciary expenses [(attorney hourly costs X number of hours X number of attorneys) + (judge costs X number of hours) + (court costs and trial expenses) + (overhead)] plus/+ child welfare agency costs [(children's services worker's hourly rate X number of hours for court work/trial and associated agency expenses related to supervision and overhead) X number of children's services workers)] minus/- mediation costs [(attorney hourly costs X number of hours X number of attorneys) + (costs associated with mediators, including supervision) + (child welfare agency hourly rate X number of hours X number of workers) + (overhead)].

Add to this equation any savings related to reduced time in out-of-home care (foster boarding home rates, worker time, additional administrative time and costs, other related expenses) that result from mediation. Considering the length of time that a child is in out-of-home care and the ways that time varies, based on cases receiving mediation or not, affects costs.

Also important to note, as in the Connecticut mediation program (1999), even when there is not a mediated agreement, the mediation process can result in clarified issues and, therefore, time savings in relation to court costs.

## Cost savings related to permanency

To attempt to answer the question about the timeliness of permanency and if it is enhanced through mediation, some comparisons can be made:

According to federal AFCARS data, the median length of stay in foster care in the state of Michigan in the year 2000 was 15.3 months (approximately 467 days) (see Note 3).

According to federal AFCARS data, the length of time to achieve permanency in Michigan differed based on permanency outcome (Year 2000). The median length of time to achieve reunification with parents was 10.4 months (approximately 312 days). The median length of time to achieve a finalized adoption was 29.6 months (approximately 888 days). The median length of time to achieve guardianship was 10.6 months (approximately 318 days).

In the PPMP Program, the median length of time from petition to permanency for all cases (foster care, adoption, guardianship) was 14.5 months. The median length of time to permanency for all cases from referral to mediation to permanency was 8.5 months. This compares favorably to the Michigan AFCARS median of 15.3 months of out-of-home placement (for children in foster care only).

The average length of time to reunification was nine months (the average is often higher than the median) and 15.75 months from petition to permanency, on average; compared to a median of 10.4 months in AFCARS data. The average length of time to adoption was 13.25 months following mediation and 19 months from time to petition to permanency, compared to a median of 29.6 months according to AFCARS data; and less than seven months from mediation to permanency and 13 months from petition, compared to AFCARS medians of 10.6 months for guardianship. This is a very tentative comparison. Although it is difficult to compare, the time from mediation to permanency appears to provide fewer days in foster care and awaiting adoption. This time savings

is particularly noted in adoption cases when counting from time of petition or time from mediation to permanency.

The Michigan Family Independence Agency reported an average cost for out-of-home placement per child in foster care in 2002 was \$1,732.43 (see Note 4). So, on average, if mediation prevented a child from entering foster care, it resulted in an annual savings of \$1,732.43 per child based on this average (not including administrative costs). Other programs have calculated greater savings.

- To the extent that mediation reduces the length of time in care by returning children to their biological parents, negotiating guardianship arrangements, placing the children in relative care, or voluntary relinquishment of parental rights then significant financial savings are achieved.
- If mediation requires fewer hours than a court process, this saves children's service worker time and expense.
- If mediation requires fewer hours than a court process (uncontested or particularly

contested), this saves attorney time and expense. Mediation significantly reduces judge time and court costs if agreements can be reached outside of court.

In addition, mediation costs are modest due, in part, to the use of voluntary trained mediators in Michigan. This practice increases the cost savings associated with permanency planning mediation in Michigan. If in a number of cases, the time in out-of-home placement can be reduced and the time to permanency is even slightly accelerated, significant additional cost savings are achieved through permanency planning mediation.

Due to the multiple factors to be considered, hidden costs and county variability, the ability to calculate the precise financial savings for Michigan due to permanency planning mediation may remain elusive. However, concluding that there is a financial savings to be gained from mediation, based on the above equations, seems to be quite reasonable. There also are incalculable benefits associated with improved family satisfaction, construction of individualized and detailed treatment plans, plan compliance and attentiveness to the permanency needs of children (see Note 7).

## Lessons learned

**B**ecause this evaluation is concerned with Michigan’s pilot programs, learning from program site experiences is essential for deciding whether to offer mediation and, if offering mediation, for guiding replication of program features.

PPMP Program coordinators and family court judges stressed that the support and commitment of the court is critical to have from the beginning of efforts to introduce child protection mediation to the various stakeholder groups in local child welfare systems. Without buy-in from judges, the primary referral source, program implementation and stakeholder engagement will be difficult, if not impossible.

Many participants experienced mediation as a significantly different experience than going to court. In particular, there were a great number of positive features of mediation noted by participants that distinguished mediation from traditional court processes such as those listed below:

- Active and full participation, with everyone getting to be heard:

*“Dialogue.”*

*“More interchange, sharing, viewpoints, options, discussions, focus on decisions.”*

*“Everyone, including families, is involved in problem solving and encouraged to take part in solving problems.”*

*“There is a free flow of communication without fear of consequences.”*

- Informality, less pressure, less conflict and less confrontation:

*“Less judgmental.”*

- Time for problem solving:

*“Less rushed.”*

*“More time devoted to individual points of view.”*

- Greater understanding:

*“It clarified things for everyone and provided them more history.”*

*“Some issues resolved, opened up communication more.”*

As a result of these mediation features, there was more information introduced to inform case decision-making and planning. And, there was a clearer understanding of family circumstances and planning options.

Although not all feedback from participants was positive, the majority of the criticisms voiced by participants were instructive:

- Feeling “ganged up” on by an attorney at the session;
- Anger with attorneys who did not appear to respect confidentiality (e.g., by note taking at the session or refusal to relinquish notes at the end of mediation);
- Concerns related to angry, oppositional and difficult family members;
- Concerns related to the mental health of a family member;
- Hostility and animosity between family members;
- Perceived stonewalling or intractability of FIA caseworker and attorneys;
- Fear for physical safety (despite the fear expressed, there were no reported incidences of violence at PPMP Program mediation sessions); and
- Concerns about intellectual competence of family members.

These participant comments have implications for mediator training. Mediators must be trained to assess mental health and other barriers to communication and decision-making; to assess and plan for participant safety; be prepared for conflict and negative emotions and be capable of engaging court-ordered family members, attorneys and other professionals in the mediation process.

### Stages of intervention

One of the evaluation findings is that mediation was used and was useful, at any stage in the history of a case. Two sites used mediation at the dispositional phase of the court process. For four of the sites, mediation was primarily used with regard to the case service plan and the corresponding phase of the court process. Cases referred to the PPMP Program either had to be in court or be headed to court under the neglect/abuse statute. This requirement encompassed a number of points of intervention, including:

1. **Pre-adjudication:** The purpose of a mediation prior to adjudication is to assist the parties and court in acting upon a pending abuse and neglect petition in a timely manner without a trial. Mediations at this stage generally involve discussion of a possible plea to the petition. Sometimes mediations at the pre-adjudication stage also address dispositional issues thus allowing parents to begin services earlier in the process. If agreement is reached as to a plea or withdrawal of the petition, a trial can be avoided. If the issues, usually handled at adjudication and the dispositional review hearing can all be addressed at one mediation, considerable court time and intervening time between multiple court proceedings can be eliminated.
2. **Dispositional phase:** Mediation focuses on the nature of and elements in the service plan and sometimes the child's placement. This involvement of parents and other interested parties, in the negotiation of the service plan may have positive implications for parental compliance (versus a case manager crafted service plan). This family involvement also may increase the consideration of relative placements.
3. **Review hearings:** Issues arising at regularly scheduled review hearings may be addressed in mediation. This suggests that some families could have multiple mediations at different phases in the process either due to the routine nature of review hearings or because of crises and complications arising during case service plan implementation.
4. **Permanency planning hearing:** Issues typically arise during this special review hearing held one year after the filing of the initial petition and may be discussed in mediation. As this one-year date is a significant one in the life of the child and family, reviewing case process, identifying and confronting obstacles to successful compliance with the service plan and considering permanency options are key components of mediation sessions held at this stage.
5. **Pre-reunification:** Mediated issues involving transition of the child from foster home to parent's home include consistency, dealing with changing relationships and parent-foster parent relationships.
6. **Termination:** Mediation seems most appropriate when one or both parents have indicated a willingness to consider a voluntary relinquishment of parental rights rather than an intention to aggressively contest a termination recommendation.

**7. Post-termination decision-making:** Mediation may be used to assist in deciding who is the appropriate permanent parent when there are multiple persons who identify themselves as potential adoptive parents. This parallels similar decision-making at the dispositional stage when selecting between two or more placement options.

**8. Miscellaneous child welfare disputes:** Other circumstances related to the child welfare system may present themselves for consideration through mediation.

In summary, one of the lessons learned from the Michigan experience is that mediation can be used at a number of points in the child welfare and judicial process.

## Conclusion

This exploratory study of Michigan's Permanency Planning Mediation Pilot Program has found that:

- Conferences can be convened and a range of issues can be resolved through mediation.
- Well-trained and supervised voluntary mediators can facilitate mediation conferences.
- Mediation can be used at a variety of points in the child welfare and court process.
- These conferences can successfully involve not only parents, but also a range of extended family members and community professionals.
- There was a high rate of reaching written agreements in mediation; and in a number of cases where written agreement was not obtained, there was still some measure of agreement, understanding and clarification of issues.
- There was a high rate of family compliance with agreements.
- A large majority of parents who participated in mediation evaluated this experience positively.
- A large majority of lawyers and child welfare workers also evaluated the mediation experience positively, with over 90% of each stating they would recommend mediation to others.
- Permanency outcomes were better for mediated cases than non-mediated cases.
- Cost savings can be presumed due to the use of volunteer mediators and time saved through mediation in place

of longer, more costly traditional court processes.

- Mediation achieved results in a broad range of potentially time-consuming cases.

Conditions that contributed to the success of mediation included:

- Support from the courts and child welfare system.
- The presence of both parents during mediation.
- Experienced mediators.

The conditions valued during mediation included:

- Broader participation.
- A less adversarial process.
- Time devoted to problem solving.

Reducing the length of stay in out-of-home placement and movement toward timely permanency were achieved in cases with significant degrees of conflict. Permanency might not be quickly and easily achieved. In addition, sometimes, cases that have been intractable or have worn out other approaches are referred to new programs as a last resort. So, it is noteworthy that mediation achieved positive results with high conflict cases and probably a number of cases that had proven difficult to work with in the system. The accomplishments of the program are not based on working with the easiest of cases.

The PPMP Program experience in Michigan supports the National Council of Juvenile and Family Court Judges' recommendation that "all juvenile and family court systems should have alternative dispute resolution processes available to the parties. These include...mediation and settlement conferences." (NCJFCJ, 1999)

## Recommendations for further study

In conducting an exploratory evaluation of a new program, a number of areas for further or future study can be identified. Several areas for further study are noted here:

1. **This evaluation looked at a number of cases from the first three years of the PPMP Program.** It would be instructive to look at the cases mediated in 2002 and 2003 through to the present day. This would allow for an examination of a PPMP Program at a later stage of development and implementation in Michigan, and these findings could be compared to the implementation experience in the beginning years. It is possible that when introducing a new approach and program, gaining some experience with the model and developing a corps of veterans would have a positive impact on the program and its outcomes.
2. **The use of an experimental design should be considered.** There are many drawbacks to such a design, including the need for a large sample size and the challenges with matching groups for comparison purposes. Also, the withholding of an intervention when the intervention and model are newly introduced may be difficult to implement. However, the exploratory nature of this first evaluation provided some detail and description that is helpful for understanding permanency planning mediation. With experience gained with the model and knowledge gleaned from evaluation, considering an experimental design or some variation seems warranted.
3. **There are a number of questions that can be explored with regard to populations involved in mediation.** For example, this study had a very small participant response rate from children and youth in attendance at mediation sessions. A study focusing on the experiences and the impact of mediation on children and youth who participate in mediation can yield information that can

inform program design and implementation. Similarly, other subsets of participants could be the focus of in-depth analysis (for example, fathers, or child protective service workers or prosecuting attorneys). Relatedly, focus on types of abuse/neglect petitions, family histories in the child welfare system, or family characteristics is important for refining referral criteria.

4. **In the early stages of the PPMP Program, mediations took place at a variety of times and points in the court process.** Isolating a particular point of referral and intervention and designing an analysis of that point of entry also would add to knowledge of the PPMP Program. With subsets of participants and different referral points, one of the challenges would be gaining a sufficiently large enough sample so that there is reasonable confidence in the generalizability of the findings.

In addition to topics for further research, there are other recommendations for further study that address definitions, data collection, methodological considerations and the extension of this initial study:

- **Definitions of permanency differ among stakeholder groups and across communities.** It is helpful to have definitions documented whenever evaluation is undertaken. Ideally, only one operationalized definition should be used when studying achievement of permanency or measuring lengths of time to reach permanency.
- **Retrospective collection of public court records may entail retrieval of paper files from storage facilities.** Electronic retrieval of public records may be cost prohibitive because of the need for already overburdened court administrators, clerks or support staff to search for the information. Specific arrangements and timeframes should be negotiated with individual court

administrators and chief judges prior to beginning evaluation.

- **Matching case records across stakeholder groups is challenging** and sometimes nearly impossible, despite the existence of electronic case information systems. At present, no common, inter-system case or child identifiers are used for record keeping. Petitions filed by Children’s Protective Services workers do not include the unique FIA child identifier or FIA case number. This omission impedes electronic retrieval of child protection and foster care information on children. Court case file numbers vary tremendously in format from one court to another and sometimes from one judge to another. Various subdivisions within any given court may or may not be apparent from the court case file number. Requesting public court record information is challenging and may need to be done through more than one office. PPMP Programs assigned still other identifiers to cases referred for mediation. These identifiers are not systematically catalogued with corresponding court or FIA assigned case and child identifiers. PPMP Program identifiers are submitted quarterly on the mandatory PPMP Program reports submitted to the Office of Dispute Resolution. These mediation identifiers do not necessarily match paper files kept at each pilot program site.

This patchwork of case identification does not impede case services within any stakeholder sector; however, the variation substantially can affect the use of case records as reliable data sources for evaluation.

- **Within each community, history, relationships and collaboration among stakeholder groups involved with child protection mediation should be assessed.** Assessment of system changes wrought by the introduction and

use of mediation can be measured most effectively if pre- and post-measures of system functioning and/or intra-system perceptions among stakeholders are collected. Instruments for assessing each local system can be both qualitative and quantitative. Validated collaboration measures are available, as well as the modified eco-map used in this initial evaluation. Interviews and focus groups also can provide valid intra-system information. Using multiple measures allows for systematic collection of data and rich, detailed information about the uniqueness of local child welfare systems.

## Topics for further consideration

**Parental compliance with child welfare service plans, court orders and mediation agreements should be assessed.** The current evaluation examined parental compliance with agreements 60 to 90 days after the mediation session. No consistent compliance information was available for cases referred but not mediated, or for cases mediated but not reaching a written agreement. Longer-term compliance also should be examined. Child welfare caseworkers may provide the most reliable assessment of compliance throughout each case. Parent, family and caseworker satisfaction and perception of mediation’s effectiveness should be assessed beyond the mediation session itself. Focus groups, mailed surveys and phone interviews allow for post-mediation follow-up.

**Future evaluations should include follow-up through surveys or interviews with FIA caseworkers, legal professionals and other participants who have expressed an interest in sharing their thoughts and experiences.** Contact information is available through expressions of interest included at the end of participant satisfaction surveys. These surveys are sent regularly to the Office of Dispute Resolution.

**An advisory group should be convened to inform a more rigorous cost/benefit analysis than was**



**possible in this evaluation.** Selected locations could be used to compile specific, validated financial estimates of costs and savings in identified communities. Such estimates should include projected or calculated court costs, legal professional time commitments and child welfare agency expenses.

**Contact should be made with the state public child welfare administrative offices with respect to identifying comparison values for lengths of time to permanency.** Comparison groups or matched cases might be possible to identify. Such arrangements would enhance future evaluation design and strengthen the generalizability of evaluation findings.

In fulfillment of federal reporting require-

ments states have developed a “case management” system, called a SACWIS, that serves as the electronic case file for children and families served by the States’ child welfare programs. One of the reports that is produced from SACWIS is the AFCARS data sent to the Administration for Children and Families (ACF). In order to qualify for SACWIS funding, states’ systems must, among other things, meet the AFCARS requirements in 45 CFR 1355.40. The State of Michigan has developed such a system to meet the federal requirements. This electronic warehouse of case information potentially could furnish case specific information, which was inaccessible for this evaluation.

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## Notes

**Note 1.** Two hundred seven cases were selected by working in decreasing chronological order from cases seen in 2001 back to 1999, based on length of time the PPMP Program had been operating at the existing pilot sites in 2003 to ensure representation of most recent cases served. The total number of mediation cases for 1999-2001 was 338 cases.

**Note 2.** For example, in Kalamazoo County court-appointed attorneys are paid \$72 an hour; in Gogebic, \$50; in Iron County, \$50. If the attorney does not have a court contract; in Ontonagon, \$40 an hour; in Cheboygan, \$150 up to two hours (including mediation) and a flat rate of \$50 an hour; in Sanilac, \$50 an hour; in Marquette, \$50 an hour; and in Kent, \$60 an hour. Preliminary to termination, \$400-\$500 in Washtenaw County and \$55 an hour thereafter.

**Note 3.** The Adoption and Foster Care Analysis and Reporting System (AFCARS) is a federal data reporting system that states are required to use to report on children who come into contact with state child welfare systems. AFCARS collects state-specific case level information on all children in foster care, for whom state child welfare agencies have responsibility for placement, care or supervision and on children who are adopted under the auspices of the state's public child welfare agency. Individual state data profiles are available for the seven major national child welfare outcomes. Among these outcomes are time to permanency for reunification of children in foster care with their parents and time to permanency for children freed for adoption. The most recent statistics for Michigan are from 2000. Michigan AFCARS statistics are offered only as a point of comparison, in the absence of more analogous statistics. The Michigan AFCARS reported median time to reunification for children in foster care was 15.3 months.

**Note 4.** The per diem rate for foster care in Michigan in 2003 was \$14.10 a day (children

0-12 years) and \$17.68 a day (13-18 years), not including administrative costs (FIA, 2003).

**Note 5.** The recognition that permanency planning mediation results in cost savings for the judicial system is not the same as saying that mediation is inexpensive. Mediation requires careful recruitment, training and supervision of mediators to ensure that the use of volunteer mediators results in skillful, respectful and effective mediation processes, agreements and overall results. The investment of attorneys and child protective services is essential in the mediation process to ensure safe and feasible agreements that respect the rights of family members and underscore the safety, permanency and well-being of children. The recruitment and training of mediators and networking with courts and agencies, community education and linkages that advance mediation programs require educated and committed professional program leaders. An investment in mediation results in quality, professional mediation services that result in effective agreements. This requires a financial commitment. However, it is financially less expensive than formal, traditional court processes and may result in other positive outcomes for families and communities, including more timely permanency for children.

**Note 6.** The reduction in time to permanency (and cost savings) associated with the PPMP Program most likely is estimated conservatively as some of the impetus for the introduction of mediation in Michigan. Some of the judicial support was generated by the desire to use mediation as a tool for the resolution of high conflict child welfare cases—most frequently those cases that had been in out-of-home placement for an extended length of time. Reductions in length of stay and movement toward timely permanency were achieved in cases with a significant degree of conflict—hence the need for conflict resolution and alternative dispute resolution strategies. Such cases are less likely to be cases in which

permanency can quickly and easily be achieved. In addition, sometimes, cases that have been intractable or have worn out other approaches are referred to new programs as a last resort. So, it is noteworthy that mediation achieved positive results with high conflict cases and probably a number of cases that had proven difficult to work with in the system. The success of the program is not based on working with “easy” cases.

**Note 7.** In addition to cost savings, there is the related issue of service delivery and federal accountability. The State of Michigan is audited by the U.S. Department of Health and Human Services through the Child and Family Service Reviews (CFSR) to assess the state’s ability

to care for children and families through its child welfare system. The Michigan Family Independence Agency’s performance was audited by the federal government in 2002. This audit noted that “children and families were not consistently involved in case planning.” Stakeholders noted untimely permanency hearings due to continuances or limited time on court dockets. Permanency planning mediation provides a means for involvement of parents and children in the case planning process and, in at least some cases, an alternative to repeated continuances and waiting for court docket time. Measures to improve the State of Michigan’s performance in the Child and Family Service Reviews will promote best practice and prevent financial penalties.

Appendix A

## Review of program and evaluation literature

**A**s noted in the background section, the use of mediation in child welfare cases is a relatively new experience that has been tried in a number of locations and is in different stages of development and evaluation. This section will survey some of the specific child welfare mediation projects that are underway in the United States and Canada. These projects have a number of elements in common in both model implementation and in evaluation experiences and challenges.

### Other pioneering states

**Connecticut.** Mediation has been used in the child welfare system in Connecticut longer than other states. In Connecticut in 1983, the Court Services Unit was established to assist the Court in neglect-related matters to provide services to these cases. Court Services Officers were trained in mediation techniques and conducted case status conferences in the Juvenile Court. The number of Court Services Units grew from four units in 1983 to 20 by May 1999. All units in locations across the state conducted mediation conferences.

Descriptions of the program focused on the characteristics of mediation, the responsibilities of mediators, mediation participants and difficulties faced in mediation and the competencies and training required for mediators. The benefits of mediation were identified as participants gaining skill in problem solving, a better chance for the long-term success of the case and the prospect of more durable parenting arrangements (Giovannucci, 1997).

With regard to the Connecticut mediation programs, Giovannucci noted, "It is generally concluded that the real difference between mediated and non-mediated cases is that mediated cases result in the parents and children receiving appropriate services and increase the likelihood of compliance with those services.

One final note should be made about those cases that do not result in a mediated agreement. The process itself can help to identify and to narrow the issues which will be taken up at the trial" (Giovannucci, 1999, 7).

An evaluation of the Connecticut mediation program noted that the program had settlement rates between 60-80% in the cases they served. Mediation seemed to work well in a broad range of cases. Cases involving questions of child placement were less likely to result in agreements. Parental participation appeared to have positive benefits. The evaluation noted that parental compliance problems were common, but parental compliance was improved with mediation. Resistance to mediation from all quarters (child protection agencies, the court) was reported. The study concluded:

- Mediation represented a "significant improvement over pretrial approaches" as all relevant parties met together to clarify issues and arrive at decisions with full and accurate information;
- A neutral facilitator is needed rather than having unfacilitated meetings;
- Early intervention should be encouraged; and
- Mediation programs should make "special efforts to involve parents in the mediation session." (Thoennes, 1994)

**California.** Mediation in child protective cases has been used in California courts for a number of years. These programs were financially supported through state legislation and through a fee attached to state birth certificates. There have been at least two evaluations of mediation in California.

One study examined mediation in two

counties in California (and this study included Connecticut as reported above). The California programs had settlement rates of 60% to 80% in the cases they served. Similar to Connecticut, mediation seemed to work well with a broad range of cases. Cases involving questions of child placement were less likely to result in agreements. Parental participation in the mediation meetings argued for routine inclusion of parents in the negotiations. Although there was little difference between mediated agreements and non-mediated agreements, mediated agreements were produced on average 30 days earlier than non-mediated agreements.

The study found that compliance problems were common in California, as they were in Connecticut, but in one of the two California sites, parental compliance was better in cases that were mediated. Also similar to Connecticut, resistance to mediation from child welfare professionals and court personnel was widely reported. The evaluation noted similar conclusions in California to those noted in Connecticut (Thoennes, 1994).

In a study of five California dependency courts using mediation, the effectiveness and cost of mediation were considered. These pilot projects had the objectives of: (1) resolving 70% of matters coming before the court in a more timely manner through mediation rather than litigation; (2) increasing creative solutions of family problems; (3) reducing foster care placements by 25%; and (4) ensuring that at least 75% of participants were satisfied with the mediation process.

Data sources included (1) mediator forms completed after the session; (2) a review of court files for descriptive information, hearings and evidence of compliance with the treatment plan; (3) self-administered questionnaires to parents; and (4) interviews with representatives of primary professional groups participating in mediation. Forms from mediators were received in 968 cases; there were 499 parent surveys and 606 court reviews of mediated cases. Over 200 non-mediated cases were reviewed in four of the counties.

This extensive study arrived at ten conclusions: (1) mediation is preferred by parents and most participants; (2) a variety of mediation models are effective; (3) mediation is effective with all types of maltreatment and at all stages in case processing; (4) preliminary findings suggested that mediated agreements are more detailed than non-mediated agreements, more likely provide services to families and make greater use of kinship care; (5) mediation appears to reduce the immediate need for contested review hearings; (6) preliminary findings suggest that mediated agreements “enjoy greater compliance by parents, at least in the short run;” (7) very preliminary evidence found that mediation reduces the amount of time in out-of-home care; (8) confidentiality is important to assure acceptance of mediation; (9) mandating mediation may be useful; and (10) in these pilot programs, hiring skilled and trained mediators was necessary to provide quality services. (Thoennes and Pearson, 1995)

With regard to the California pilot projects and their evaluation, there were several limitations acknowledged in the study. For example, the time line did not allow the evaluators to follow cases over a lengthy period of time or discover what ultimately transpired with respect to savings in court time, length of out-of-home placement or compliance patterns. In addition the programs were evolving even while the mediation took place.

**Wisconsin.** In 1998, the Center for Public Policy Studies with the Wisconsin Supreme Court received funding from the State Justice Institute to introduce mediated child protective conferencing in criminal and civil child abuse and neglect cases. Two southwestern counties were selected for the pilot. The major goals were: (1) less adversarial handling of child abuse and neglect cases so that families cooperate and comply with treatment plans; (2) expand the involvement of extended family and other relevant parties as these persons may have contributed to the problem or might contribute to the solution; (3) speed up the res-

olution of cases—mediated case conferences were scheduled 20-30 days after an initial court hearing; and (4) develop a coordinated resolution of the case. The model included: (1) referring all civil and misdemeanor child abuse and neglect cases to a mediated child protection conference that included the accused, other family, children, foster parents, caseworkers, other service providers; (2) the conferencing was also extended to companion felony cases and to resolve termination of parental rights matters.

Thirty-seven conferences were held. Findings included: (1) conferences can resolve child abuse and neglect cases; (2) tough cases and routine cases could be handled; (3) there were benefits such as increased parental understanding and improving relationships; (4) there were advantages in criminal cases, including better coordination of efforts and focus on the children; (5) mediators needed to be flexible in their approaches; (6) continuity of justice, social service and mediators was important; and (7) a collaborative infrastructure is necessary to support these projects.

**Ohio.** With funding from the federal government and the Hamilton County Juvenile Court, a child protective mediation program was introduced in Hamilton County, Ohio. This program used contracted community mediators, and the focus was on permanent custody in adoption cases and degrees of openness in the adoption between adoptive parents and biological parents. There were 49 cases over two years, with a comparable case control group of 37 cases. Findings included: (1) 40% of cases reaching agreement; (2) a wide range of cases resolving permanent custody issues; (3) high levels of satisfaction with mediation; and (4) even when there wasn't agreement, the issues in the dispute were narrowed.

**Iowa.** The State of Iowa had two child protection mediation projects: the "Iowa Mediation for Permanency Project," followed a year later by "Expediting Permanency through

Community Decision Making Project." Both of these projects were three-year projects funded by federal grants from the U.S. Department of Health and Human Services, Administration for Children, Youth and Families.

The Iowa Mediation for Permanency Project was an Adoption Opportunities grant designed to attempt to change the existing adversarial and lengthy permanency decision-making process. It introduced mediation at a variety of points along the permanency continuum. This model also had multiple sessions over time and used "shuttle mediation," i.e., not meeting with all of the parties in the same room. There were four stages: recruitment and screening, assessment, mediation and follow-up. Mediators were paid as independent contractors and recruited from social workers, attorneys and other mental health practitioners.

The evaluation described the profile of the families in mediation, had process measures for mediation progress and identified outcomes. There was no comparison or control group. Over a four-year period, 118 families were served. The largest numbers of cases were referred at the point of making a permanency decision. The second largest time for referrals was at the time of termination of parental rights. It took 35 days from initial referral to the date that mediation was agreed to, an additional 69 days to draft an agreement through mediation and 39 more days to sign a final agreement. The time for handling a mediation case averaged five months; mediators spent an average of 32 hours per case (including paperwork). Thirty-nine percent of families reached a final, signed mediated agreement. The evaluation noted "often the process of problem solving with a neutral third party helped to effect changes in relationships that could not be measured by the development of a formal document alone."

Outcome data identified permanency status with the goal being a degree of permanency resolution. Participant satisfaction was measured by a mailed survey: 16% of the total number of evaluations received came from

family members, 24% from public child welfare case managers and 20% from attorneys. The response rate for managers was 47%; for attorneys, 39% and for family members, 40%. Ninety percent of all participants found mediation to be helpful.

The cost of mediation was calculated by multiplying the number of hours that the mediator spent on the case by the hourly rate for each mediator (\$902 median); the cost was higher for cases with a signed mediation agreement (\$2,189 median). The study concluded that mediation was “reasonably priced and cost effective in light of the positive permanency outcomes.” Follow ups began at six months following mediation, but data was incomplete; contact was attempted with 39 families, and nine of these could not be located. Eighty-seven percent indicated that agreements were still in place at six months following mediation. (Landsman, et. al., 2003)

This first grant-funded project was funded by the State of Iowa for one year following the conclusion of the federal grant. It was ended after that year due to state budget cuts. A second federal grant was received from the U.S. Department of Health and Human Services for three years (\$600,000) to implement a community collaborative model for child protection mediation. In this program, six pilot sites from across the state were selected. Community collaborative teams composed of representatives from the judiciary, child welfare, CASA, attorneys, school, faith community, private agencies, mental health providers, foster/adoptive parents and substance abuse treatment agencies were formed. These teams promoted and guided the use of two alternative dispute resolution strategies with families—child protection mediation or family group decision-making (FGDM).

The sites accepted referrals after the court had taken jurisdiction. Two pilot sites also took cases before any court involvement to divert cases from the court system. Families were offered mediation or FGDM. The evaluation reported on the effectiveness of the strategies

based on the perceptions of community teams (37 individuals reporting). In 12 months, 180 cases were served. A high level of satisfaction (95%; combined participants) was reported; and a savings of bench time and court costs.

To calculate financial savings, there were estimates with regard to time and court expenses. Mediation professionals estimate reducing court time by 40 hours per case for cases referred prior to court involvement. The cost of court time was estimated at \$10,680 per case. Mediation is estimated to take five hours of time (including one hour of paperwork) at a cost of \$400. Consequently, there was cost savings of \$10,280 per case prior to court involvement. After adjudication, reported time savings related to these strategies ranged from a half-day to three days in court. Once the court is involved, there was an estimated savings of \$1,064 per case.

Court expenses were computed based on hourly wages for one experienced judge, a court reporter, a county attorney, guardian ad litem and two attorneys. Savings from mediation, compared to contested cases at permanency and termination, were estimated to be \$1,862 per day. The average per case cost of mediation after court involvement was \$1,093. Iowa recruited and paid professionals experienced in child welfare to conduct mediation sessions (Landsman, et. al., 2002).

**Oregon.** One of the first states to implement negotiation of voluntary termination of parental rights was Oregon. There has been some discussion as to the nature of this program and the extent to which it is comparable to other child welfare mediation programs. It will be described here, but it differs from other programs in that it focuses on the termination of parental rights and the negotiation of an open adoption. There have been a number of questions raised about this model, including about the voluntary nature of the mediation when the consequences of not participating may be the involuntary termination of parental rights; and biological family high compliance seems



to be supported by the risk of forfeiting the open adoption if there is noncompliance.

The Oregon project focused on the use of mediation for voluntary relinquishment of parental rights and development of an open adoption agreement written between birth and adoptive parents (Etter, 1988). Open adoption was defined as “an ongoing channel between biological and adoptive parents with communication going both ways” (p. 260). This program reported that the average number of hours in mediation was 19 hours per dyad; 25-30 hours per family group. The focus was on educating about parenting, about adoption and the opportunity for a voluntary relinquishment and open adoption. The provisions of the open adoption were part of the mediation negotiations.

The cases averaged three months to completion of mediation. There were five months to adoptive placement, on average. In a study of the outcomes of mediated open adoptions, a questionnaire was mailed to adoptive and birth families. Out of 72 adoptions, either an adoptive parent or biological parent responded from 56 adoptions. There was both an adoptive parent and biological parent responding in 32 cases. An average of 4.5 years after the adoption, 129 biological and adoptive parents demonstrated high levels of compliance with adoption agreements (98.2%) and satisfaction with having an open adoption (93.8%).

There was 92.8% compliance by the adoptive parents; 100% by the biological parents who returned questionnaires. If a biological family violated the agreement, they risked losing all contact with the adopted child. With regard to the mediation process, 78.2% of all parents were satisfied with the mediation process (10% were dissatisfied and 12% reported being neutral; satisfaction reports were identical for adoptive and biological parents). There was no comparison with non-mediated, closed adoptions.

In order to evaluate the potential cost-benefit of investment in Oregon’s program,

the estimated costs of contested termination proceedings needed to be determined. The cost analysis of the Oregon project did not include costs to the public child welfare agency in managing the prosecution of these cases (administrative and CPS/foster care worker), nor the cost of foster care. It did include legal assistance to the agency at the time of trial and appeal, costs of expert witnesses and investigations to support the state’s case, indigent defense costs for the parents and children including attorney fees and transcript costs.

Costs were generally calculated by looking at hourly costs including fringe for the court staff in attendance. Case costs for four cases (\$28,886; \$19,909; \$8,945; and \$6,927) were presented, averaging \$16,176. According to *The Oregonian*, in a 1995 editorial supporting a bill to require parties to a petition of parental rights try mediation before going to court, it was stated that the average cost of traditional court termination proceedings (with a contested trial) was \$22,000 (excluding foster care costs, staff time, overhead and expenses related to appeals). The average cost of mediation, using paid staff mediators, was \$3,500.

**Washington and Idaho.** In the State of Washington, beginning in 1994, mediation was proposed in three child welfare areas: (1) up-front child protective concerns to promote case planning and prevent contested hearings. This approach was found to take two to three mediation sessions, averaging one hour a session; with a cost of approximately \$212 combining the expenses of mediator time, supervision, administration, contracting and overhead; (2) permanency planning to avoid contested termination of parental rights trials. This approach was estimated to take eight to 38 sessions and on average costing at least \$2,000 for mediation; and (3) cooperative adoption planning for an open adoption through mediation with biological and adoptive parents. This approach took from two to 20 sessions at an average cost of at least \$935.

This Washington state model was based on the Oregon model. Proposed by Lutheran Social Services in Washington and Idaho, a federal grant proposal to support mediation noted that in Lutheran Social Services mediation programs, 76% of children achieved permanence (70% released for adoption) in an average time of 13.1 months. These programs were based on the Oregon model.

### Canadian mediation projects

**Toronto, Ontario.** Child protective mediation was conducted in Toronto through the Centre for Child and Family Mediation, which was founded in 1990. A program report noted that the mediators had conducted 45 mediations between 1991-1994. There was participant agreement in approximately 85% of the cases. The study reporting on these 45 mediations noted that the average cost per case was approximately \$1,100. This compared to the average cost of an uncontested case in court placed at \$1,500 in legal fees alone. In describing the length of mediation, the average cases took about eight weeks to complete from the date of referral to the date of agreement or termination. Approximately 10-15 hours of mediator time were required.

The study found that participant satisfaction was universally reported to be high (no specific percentages). Social workers reported high compliance rates in cases with mediated agreements. The primary challenge facing the mediation program was low referral rates for use of mediation. Low rate of service was attributed to child welfare agency inertia, resistance from workers who did not want their judgment questioned and worker reluctance to give up control of the process (Maresca, 1995).

**London, Ontario.** The Child Protection Mediation Project in London, Ontario reported that they will study case outcomes for 25 families using mediation. These 25 families will be compared with 25 similar families selected from the service area prior to the advent of the mediation. Outcomes will focus on satisfaction of parties, ability to address the best interests of children, timeliness of resolution, settlement rate, durability of mediated agreements compared with court orders and relative costs of mediation and the status quo.

This study will also investigate the process of implementation. Principal sources of information include: (1) interviews with parents at intake, after mediation, six months later and one year later; (2) tracking of cases using file data sources; (3) interviews with mediators and lawyers; (4) prospective tracking of costs associated with both court processing and mediation; and (5) feedback from stakeholder groups about mediation. This study began in 2002 and will be completed in 2004 (Cunningham and VanLeeuwen, 2002).

**Nova Scotia.** In an analysis of a child protection mediation program in Canada, implemented in Nova Scotia in 1993, a number of criticisms were identified: (1) for not safeguarding children from neglect and abuse; (2) for redundancy with respect to settlements offered by child protective service workers; (3) its nonuse of child protective service workers as mediators; and (4) for power imbalances between negotiating parties. It also suffered from a low number of referrals. The author suggested that, based on this experience, gaining support from child protection leadership and front-line staff is necessary to create a stable and beneficial mediation program (Carruthers, 1997).

## Appendix B

## Notes on cost

Many challenges emerge when determining the costs of a new program and comparing that new program to existing service delivery. For example, the cost of traditional service delivery may not be precisely known. Analysis is further complicated by the variety of cases and locations served by the Michigan PPMP Program. Other PPMP Programs, such as the Wisconsin mediation conferencing program, were conducted in one county. Other evaluations, such as the Ohio and the Oregon programs, examine a fairly precise decision point (in these cases issues related to termination of parental rights and negotiating an open adoption).

All permanency-planning programs assert that their programs are cost effective. Some claim large financial savings for the jurisdictions in which the programs are implemented. In Michigan, with multiple sites, with multiple attorney reimbursement rates and with multiple decision points in the legal process, documenting precise cost savings will be a challenge.

### Formulas

There are a number of strategies for calculating cost savings. One strategy has the following elements to calculate the salary costs spent on a case:

1. The calculation begins by identifying the annual salary of each paid professional involved in the program.
2. There should be a calculation of the number of working days.
3. Dividing the annual salary by the number of working days results in a daily rate of pay.
4. Dividing the daily rate by the number of working hours calculates the hourly rate.
5. Identify the number of hours required of each professional in the program.
6. Multiply the number of hours worked by the hourly rate for each staff person.
7. Sum the individual case totals for all of the staff/professionals thus calculating the total salary costs for the case.
8. Perform these calculations for the new program and for the traditional programmatic response to the case.
9. Compare these numbers to make an assessment of comparative cost and savings with regard to salaries.
10. Identify other costs associated with the new program and with the traditional service response. Add these costs to the equation to get a more expansive comparison of total program costs.

Additionally, other costs may be difficult to determine such as child welfare worker supervision, case consultation, training and other forms of programmatic support. Calculations also might factor in time and cost savings that are relatively fixed in nature—a judge’s salary will not be reduced due to mediation resulting in more timely movement of a certain number of cases. That is not to say that there are not benefits in reducing the demands on judge’s time, such as more time to spend on other troublesome cases or a more timely ability to manage an overall set of cases.

In addition to considering costs, it is important to consider the benefits, both concrete and intangible ones. In this regard, “costs are the value of everything that goes into providing a service, and benefits are the changes that a service generates (Rowe, 2004). The combination

of costs and benefits results in a description of program effectiveness that can be compared to a traditional response or reasonable alternative. Measuring the benefits of mediation poses additional challenges. Most mediation evaluations state that increased parental understanding, involvement and progress toward an agreement, even if an agreement is not reached, are positive, although unmeasurable, benefits of mediation. In the Michigan study, it may be possible to describe a modest benefit in reduced time in temporary foster care with the resulting cost savings and presumably human savings, as well.

All elements of assessing cost are more difficult in a retrospective study. A recommendation for further study is the construction of a record that makes it possible to account for time and costs with some precision.

Overall, the key elements in determining cost are time spent on the mediation, the expenses in relation to that specific time and the programmatic/overhead costs that are part of the program. There also may be additional costs in starting up a new program; these expenses may be lessened with experience and the development of programmatic templates, guidelines and decision rules that reduce the amount of time needed for each case.

### **Mediation cost effectiveness reports**

It may be helpful to look at cost effectiveness and savings as computed in other mediation studies in child welfare. In an analysis of permanency planning mediation in California, the following figures were reported (the formula for calculating these expenses was not in the report):

1. Average cost to social service agency for contested hearing, \$24,000.
2. Average cost to judiciary for a contested hearing, \$34,000.

So, the average combined costs for one contested hearing were \$58,000.

3. Average cost of a permanency planning mediation, \$3,500.

So, the average savings created by mediation per case was calculated to be \$54,500.

Based on 2,000 permanency planning mediations in the state of California, annual savings for the state, based on the provision of mediation services, was \$108,500,000; with cost savings of \$44,500,000 for social service agencies and \$64,000,000 for the judiciary. This savings projection assumed that these 2,000 cases would have resulted in contested hearings and that those hearings' expenses would meet the above-stated average expenses (<http://consortforkids.org/Financial>).

A report on the Oregon permanency planning process stated that a contested termination of parental rights hearing in Oregon cost the state judiciary \$22,000 (not including child welfare agency expenses or court overhead). The mediation program that negotiated voluntary relinquishments (versus court ordered terminations) cost \$3,500 per case (with paid professional mediators). There are missing values on both sides of this computation, but it seems reasonable to conclude that negotiating a voluntary relinquishment rather than litigating termination of parental rights results in a financial savings to the court (and presumably to the agency) in addition to the potential benefits for the children, biological parents and adoptive parents (more timely decisions).

In Wisconsin, mediation routinely was used early in the child welfare case. The fees for the mediator, guardian ad litem and adversary lawyer were calculated to be \$37,580. This cost did not include court overhead or direct costs such as supplies and space. This study reported serving 37 cases. The evaluation did not present the traditional court costs. The study concluded that the court viewed these costs as a worthy investment and valued the non-monetary benefits (such as better case coordination and better outcomes for children and families, including saved time). These

benefits were assessed to “far exceed” new costs associated with the introduction of mediation.

The Ohio study—which focused on a relatively precise decision point of permanent custody in one county—addressed mediation and cost savings in two ways. The first way was to ask participants if “in at least one case, mediation reduced the amount of time” spent on a case; and “in at least one case, mediation increased the amount of time.” The second method was a mathematical calculation similar to the process described above in which time is accounted for and matched to personnel costs. This involved a number of assumptions (for example, that there was a three-hour “down time” built into each case due to waiting for a hearing or finding that a case was being continued).

The study calculated the costs per case settled pre-trial with no mediation, the costs per case settled in trial with no mediation; mediation costs for cases settled in mediation and those not settled in mediation; and then a comparison. Assuming that all cases cost the same, mediation saved \$2,327 per case. A significant part of that savings was attributable to time and salary savings with LGALs in mediated cases versus nonmediated cases. Case records were designed to capture time spent on various aspects of the case. The Ohio study examined 49 cases.

### **Summary**

The Michigan evaluation includes considerably more cases, but the point of intervention varied widely, even within sites. These sites were located in a number of different counties. These conditions and other programmatic realities pose challenges to calculating cost savings. Different from the studies cited, Michigan generally used two volunteer mediators. The mediators in the states cited above were paid professionals. In Michigan, sometimes one of the mediators was the paid site coordinator. The above-noted studies generally did not account for programmatic costs such as administration, supervision and training.

A more precise discussion of costs will require the identification of a number of assumptions with regard to time, more precise record keeping and identification of variable costs related to type and timing of the mediation. Identifying the cost of traditional service provision and court involvement needs to take place to make a comparison. The benefits of the PPMP Program should also be considered—as they were in Wisconsin—with an affirmation of certain values and by calculating cost savings associated with more timely permanency.

Appendix C  
Evaluation data collection forms and required PPMP program reports

Quarterly Report Form

Reporting Period: \_\_\_\_\_  
Center Name: \_\_\_\_\_

**Permanency Planning Mediation Program**  
**Evaluation Data Collection Form**  
**PPMP- 04/05PP**

**Instructions**

This form should be completed using the quarterly supplement to the center's CDRP-03QT. Centers using the CDRP statistical software can easily code PPMP cases to generate quarterly PPMP case reports on the CDRP-03QT form. Centers not using the statistical software must complete an individual CDRP-03QT (PPMP) form by hand. Either of these forms are acceptable sources for the information needed.

If the project incorporates more than one county, please use an identifier to note which county cases are received from, e.g., Case 123 (M) or (J), for Monroe or Jackson Counties.

Cases should be counted in the same manner as other mediation cases. Multiple sessions leading to one agreement (or no agreement) counts as one case disposition. If that same case returns to mediation at a later stage in a protective proceeding, the matter should receive a new case number. The opening of a new file on a previously mediated matter returning to mediation should be designated on the form in the column provided.







Quarterly Report Form (continued)

**60-90 Day Follow-up**

(Check all boxes that apply and make sure compliance of all parties to the agreement is reported, i.e. a box or boxes should be checked that indicates compliance of both parents and other parties - if there was nothing for either parents or other parties to do in the agreement, please indicate this by writing either n/a parents or n/a other parties).

<b>No Compliance with Agreement by other parties</b>																				
<b>No Compliance with Agreement by parents</b>																				
<b>Partial Compliance with Agreement by other parties</b>																				
<b>Partial Compliance with Agreement by parents</b>																				
<b>Full Compliance with Agreement by Other Parties</b>																				
<b>Full Compliance with Agreement by Parents</b>																				
<b>Full Compliance with Agreement by all parties</b>																				
<b>Center Case No.</b>																				

Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

Annual Report Form

<b>Permanency Outcomes PPMP-05PP</b>	<b>Permanency Outcome (Check only one)</b>	Other (Please indicate)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Independent Living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Long Term Foster Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Permanent Foster Family Agreement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Guardianship	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Reunited with Either Parent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Adoption	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Duration of Case</b>	No. of days between the date of Mediation Referral and the Permanency Outcome												
		No. of days between the filing of the initial petition and the Permanency Outcome												
	Center Case No.													

Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

Michigan Permanency Planning Mediation Program Evaluation  
Michigan State University School of Social Work

1. I am the (please check one):  
 Mother       Father       Child/Teen (please list your age):       Family Member  
 Caseworker    Prosecutor    Guardian Ad Litem    Other (please specify): \_\_\_\_\_  
 Attorney for (please specify: \_\_\_\_\_)

2) The following statements are about the mediation process. Please indicate to the extent you agree or disagree by marking ( ) for each statement.	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Does not apply to me	See Comments
a) Before mediation, I was given information about mediation.							
b) At the beginning, the mediators explained mediation to me							
c) The mediators listened carefully to me.							
d) We talked about all the issues that were important to me.							
e) The mediators treated everyone fairly.							
f) Other people in mediation listened to me.							
g) Other people in mediation took me seriously.							
h) I have a better understanding of others' points of view.							
i) The mediators did not take sides.							
j) The mediators were organized.							
k) The mediators understood what I was talking about.							
l) I was treated with respect.							
m) I had the chance to fully participate in mediation.							
n) Mediation helped improve my relationship with one or more persons in the room.							
o) Mediation helped me with issues I was concerned about.							
p) I feel that the result was fair.							
q) Whether or not an agreement was reached, I understand what I have to do next.							
r) Whether or not an agreement was reached, I understand what other people will do next.							
s) I would use mediation again.							
t) I would recommend mediation to someone else.							



Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

**MEDIATOR EVALUATION OF MEDIATION**  
**Permanency Planning Mediation Program Evaluation**  
**Michigan State University School of Social Work**  
**PPMP-11PP**

1. **Please check the anticipated issues in this case, i.e. what appeared to be the issues prior to mediation when you were assigned this case.**  
**Please check all that apply.**
  - Wording of petition/plea
  - Compliance with service plan/parent/agency agreement
  - Personality/communication problem
  - Service plan/parent-agency agreement
  - Visitation
  - Permanency options
  - Other (please indicate): \_\_\_\_\_
  
2. **Please check the actual issues, i.e. the issues that were actually discussed during the mediation. Please check all that apply.**
  - Wording of petition/plea
  - Compliance with service plan/parent/agency agreement
  - Personality/communication problem
  - Service plan/parent-agency agreement
  - Visitation
  - Permanency options
  - Other (please indicate): \_\_\_\_\_
  
3. **How many mediation sessions were held?** \_\_\_\_\_ session(s)  
**How many minutes was the entire mediation?** \_\_\_\_\_ minute(s)
  
4. **Please check all that apply:**
  - All issues were resolved
  - Some issues were resolved
  - There was no agreement on any issues
  - New issues were identified
  - Issues were clarified
  - Communication improved between the parties
  - Other (please indicate): \_\_\_\_\_
  
5. **Please check the participants involved in the mediation.** No discrepancies
  
6. **Did anything happen in the mediation that proved difficult to handle and/or that you felt unprepared to handle?**  No  Yes (if yes, record comment)
  
7. **Please describe any modifications you would recommend for the training of permanency planning mediators:**  None provided  Yes, see comment  
(Record comment in full)

Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

### Mediation Case Record Review Form

					OTHER3:					



Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

Name \_\_\_\_\_  
Court \_\_\_\_\_

Print Version for return by  
mailing or faxing

## **Judges' Questionnaire**

### Permanency Planning Mediation Program Evaluation

Please provide a brief summary of your thoughts and experiences with the Permanency Planning Mediation Program. We have included several questions to structure your answers. However, we are interested in any feedback you have about the use of mediation for child protection cases.

What is your perception of the effectiveness of mediation in child protection cases?

In your opinion, does mediation have an effect on the time it takes for a child to reach permanency in comparison to cases that are not mediated?

What impact, if any, has child protection mediation had regarding parental compliance with court orders?

What is your perception of the impact, if any, that mediation has had on relationships between the child welfare system stakeholders in your community? i.e. families, foster families, FIA, private agency workers, Prosecutor, GAL, other attorneys, and the Court.

Do you perceive that there are cost or time savings when mediation is used in child protection cases?

At what point/event do you consider a case has achieved permanency?

What advice would you give another Court that was interested in implementing the Permanency Planning Mediation Program?



Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

## Child Welfare Agency Questionnaire

Name & Job Title \_\_\_\_\_  
County \_\_\_\_\_

Print Version for  
**return by faxing**

### **Public Child Welfare Questionnaire** Permanency Planning Mediation Program Evaluation

Please provide a brief summary of your thoughts and experiences with the Permanency Planning Mediation Program. We have included several questions to structure your answers. However, we are interested in any feedback you have about the use of mediation for child permanency planning cases. We need to receive your response as soon as possible to guarantee inclusion in the final report of the PPMP evaluation.

What is your perception of the effectiveness of mediation in child protection / foster care cases?

In your opinion, does mediation have an effect on the time it takes for a child to reach permanency in comparison to cases that are not mediated?

What impact, if any, has child protection mediation had regarding parental compliance with court orders?

What is your perception of the impact, if any, that mediation has had on relationships between the child welfare system stakeholders in your community? i.e. FIA, families, foster families, private agency workers, Prosecutor's Office, GALs, other attorneys, and the Court.

What advice would you give another FIA County Office that was interested in implementing the Permanency Planning Mediation Program?

Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

## Program Implementation Interview

PPMP Evaluation

Site: \_\_\_\_\_

### Permanency Planning Mediation Program Implementation Process

1. **Program Name:** \_\_\_\_\_

2. **Program Implementation**

A Implementation Dates Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

B Compare your actual implementation schedule to the planned program schedule: (choose one)  
? Generally on schedule ? Ahead of planned schedule ? Behind planned schedule

C If implementation differed from the originally planned schedule, what caused the differences?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D To what extent did the differences affect the program?

\_\_\_\_\_  
\_\_\_\_\_

3. **Reflections and Lessons Learned**

A. If your agency were to implement the program over again, what would you like to do differently? What lessons did you learn?

\_\_\_\_\_  
\_\_\_\_\_

B. What would you be sure to do again?

\_\_\_\_\_  
\_\_\_\_\_

C. What advice might you share with another agency that was planning to implement a similar program?

\_\_\_\_\_  
\_\_\_\_\_

D. What suggestions or advice can you offer to the evaluation team about interpretation of the information you have shared about this program or Permanency Planning Mediation overall?

\_\_\_\_\_  
\_\_\_\_\_

Appendix C

Evaluation data collection forms and required PPMP program reports (continued)

### Modified Eco-Map for Assessing Child Welfare System Stakeholder Relationships

Community Child Welfare System Eco Map.  
For use in evaluating PPMP pilot program

**Legend**  
Non-interactive =  
Strong, positive =  
Stressful, negative =  
Tenuous, strained =