

# Impact of Mediation on Criminal Misdemeanor Cases



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## Research Design, Implementation and Report Authors

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The principal researcher for this project was Lorig Charkoudian, Executive Director of Community Mediation Maryland in collaboration with the Maryland Administrative Office of the Courts (AOC). The day to day implementation of research protocols was supervised by Haleigh LaChance, Research Associate at the Bosserman Center for Dispute Resolution at Salisbury University.

Data collection was conducted by professional research assistants: Lindsay Barranco, Michal Bilick, Kate Bogan, Gretchen Kainz, Brittany Kesteven, Sue Rose, and Emmett Ward. Statistical analysis of the data was conducted by Lorig Charkoudian. This report was written by Lorig Charkoudian, with significant contributions from Haleigh LaChance and Jamie Walter.

## Acknowledgments

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This report is connected to a broader study of alternative dispute resolution (ADR) in Maryland courts being conducted by the AOC in collaboration with Community Mediation Maryland, Bosserman Center for Dispute Resolution at Salisbury University, the Institute for Governmental Service and Research, University of Maryland, College Park, and the University of Maryland Francis King Carey School of Law, with funding from the State Justice Institute.

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Questions concerning this report should be directed to Jamie Walter, Director of Court Operations, Administrative Office of the Courts, at 410-260-1725 or via e-mail at [Jamie.walter@mdcourts.gov](mailto:Jamie.walter@mdcourts.gov).

## Executive Summary

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### Overview

In several counties in Maryland, the State's Attorney's Office (SAO) refers misdemeanor criminal cases to mediation prior to the scheduled court date. Generally, cases which are referred to mediation are those in which there is an ongoing relationship between the participants which lead to the alleged crime and the SAO believes that these underlying issues could be better resolved in mediation rather than through the standard court process. In those counties where such a referral process exists, SAO staff screen cases to consider if they are appropriate for mediation, including screening out cases in which participants may not be able to speak for themselves without fear of retaliation (such as in some domestic violence situations). The SAO may refer the case to an independent community mediation center or, in two counties, in-house mediators may mediate the dispute. Generally, if participants are both satisfied with the results of the mediation, the SAO will either nolle prosequi (formally not prosecute) or put the case on the inactive docket (stet) from which it will close within a year if there is no additional action. Often, the participants do not need to show up again for their court hearing if they resolve the case in mediation.

This report explores the impact in terms of the cost to the court system for cases which are referred to mediation compared to cases which are not referred to mediation, in the short and long term. This report also explores the impact on the participants report regarding how the situation has worked out for them.

In order to compare the impact, it is necessary to have both a group of cases that were mediated (the Mediation Group) and a group of cases that are similar but that were never offered mediation (the comparison group). It is also important to have significant information about those cases so that a legitimate comparison can be done, which controls for the many factors which could result in the differences in the outcomes.

### The Data Set

This study uses cases referred from the Washington County State's Attorney's Office to the Washington County Community Mediation Center for mediation as the mediation group. Similar cases from the Frederick County State's Attorney's Office were considered as the comparison group. Washington and Frederick counties are adjacent to one another and share many similar characteristics. The Washington County SAO uses mediation as a diversion program and the Frederick County SAO does not. This offered an opportunity to create a comparison group that is similar, without having to take the mediation opportunity away from those who might otherwise be offered the service.

In order to create a comparison group, researchers interviewed Washington County SAO staff about how they make referrals to mediation. They then created a profile for referrals and used this profile to select cases from the Frederick SAO office that might have been referred to mediation had they been in Washington County. Researchers conducted interviews by phone with both groups. Participants in the mediation group were interviewed by phone when they arrived for their mediation. Participants in the comparison group were interviewed by phone soon after their case was opened. Additional data was obtained through reviews of court data. Researchers examined court records to determine the final disposition of the case, any sentencing that resulted from the case, as well as if the same participants returned to court for subsequent criminal or civil cases in the next 12 months.

## **Analysis**

This study also uses propensity score matching to consider possible selection bias and ensure that cases being compared to each other are essentially equivalent according to the variables measured. This study also uses logistic regression analysis to consider other factors which may influence the outcome, other than the treatment being considered.

To our knowledge, this is the only study that has compared mediated and non-mediated criminal misdemeanor cases with this level of attention to creating a comparison group and the only study that has used propensity score matching and logistic regression analysis to isolate the impact of the mediation treatment.

## **Findings**

This report demonstrates that mediation of criminal cases has a statistically significant impact on several crucial areas of interest, including judiciary impact in the short and long term and participants' experience of resolution. In the analysis of case data in the short term, mediation had a statistically significant and negative impact on the likelihood of any judicial action, the likelihood of a jury trial prayed, or the likelihood of supervised probation or jail-time. The predicted probability of a case resulting in Judicial Action is 5.3% for a mediated cases and 29% for a non-mediated cases. The predicted probability of a case resulting in a Jury Trial Prayed is 2.4% for a mediated case and 13% for a non-mediated case. The predicted probability of a case resulting in Supervised Probation or Jail-time is .9% for a mediated case and 8.3% for a non-mediated case. The predicted probabilities are calculated after taking into consideration the many other factors that may affect these outcomes. Another way to consider these findings is that a case that is not mediated is five times more likely to result in judicial action, five times more likely to result in jury trial prayed, and ten times more likely to result in supervised probation or jailtime.

In the analysis of case data in the longer term, mediation had a statistically significant and negative impact on the likelihood of the probability of those same participants returning to criminal court with new charges in the subsequent 12 months. The predicted probability of

returning to criminal court in the subsequent 12 months for cases that went to mediation is 1.7% the predicted probability of returning to criminal court in the subsequent 12 months for cases that went through the regular court process was 8.2%. This means that cases that were not mediated were almost five times more likely to return to criminal court in the subsequent 12 months.

In the analysis of participant data, participating in mediation has a positive and significant impact on participants reporting several months after the intervention that the outcome is working, the issues have been resolved, and they are satisfied with the process. This reinforces the findings in the case data and generally points to long term resolution. In general, mediation does not have a statistically significant impact on the changes in attitudes among participants from before mediation to several months later.

Overall, participant reports and case level analysis reinforce each other in indicating that mediation resolves issues with outcomes that work in the long term and keep cases from returning to court with subsequent criminal charges. Mediation also results in the use of fewer court and law enforcement resources in the short and long term.

These results are important in terms of their implications for judiciary as well as local law enforcement resources, in addition to their implications on the lives of the people involved in these conflicts.

## **Implications**

Given its clear connection to several positive outcomes in both the short and long term, the Maryland Judiciary should continue to encourage or support the use of mediation in criminal misdemeanor cases.

## Introduction

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In several counties in Maryland, the State's Attorney's Office (SAO) refers misdemeanor criminal cases to mediation prior to the scheduled court date. Generally, cases which are referred to mediation are those in which there is an ongoing relationship between the participants which lead to the alleged crime and the SAO believes that these underlying issues could be better resolved in mediation rather than through the standard court process. In those counties where such a referral process exists, SAO staff screen cases to consider if they are appropriate for mediation, including screening out cases in which participants may not be able to speak for themselves without fear of retaliation (such as in some domestic violence situations). The SAO may refer the case to an independent community mediation center or, in two counties, in-house mediators may mediate the dispute. Generally, if participants are both satisfied with the results of the mediation, the SAO will either *nolle prosequi* (formally not prosecute) or put the case on the inactive docket (*stet*) from which it will close within a year if there is no additional action. Often, the participants do not need to show up again for their court hearing if they resolve the case in mediation.

This report explores the impact in terms of the cost to the court system for cases which are referred to mediation compared to cases which are not referred to mediation, in the short and long term. This report also explores the impact on the participants' report regarding how the situation has worked out for them.

In order to compare the impact, it is necessary to have both a group of cases that were mediated (the Mediation Group) and a group of cases that are similar but that were never offered mediation (the comparison group). It is also important to have significant information about those cases so that a legitimate comparison can be done, which controls for the many factors which could result in the differences in the outcomes.

This study uses cases referred from the Washington County State's Attorney's Office to the Washington County Community Mediation Center for mediation as the Mediation Group. Similar cases from the Frederick County State's Attorney's Office were considered as the comparison group. Washington and Frederick counties are adjacent to one another and share many similar characteristics. The Washington County SAO uses mediation as a diversion program and the Frederick County SAO does not. This offered an opportunity to create a comparison group that is similar, without having to take the mediation opportunity away from those who might otherwise be offered the service. Further detail about how the comparison group was selected can be read in the full report (below).

This study also uses propensity score matching to consider possible selection bias and ensure that cases being compared to each other are essentially equivalent according to the



variables measured. This study also uses logistic regression analysis to consider other factors which may influence the outcome, other than the treatment we are considering.

To our knowledge, this is the only study that has compared mediated and non-mediated criminal misdemeanor cases with this level of attention to creating a comparison group and the only study that has used propensity score matching and logistic regression analysis to isolate the impact of the mediation treatment.

The first section of this report includes the short and long term analysis of data by case. The second section of this report includes the long term analysis of data by participant.

## **Overview of Data and Data Collection Process**

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### **Data Collection**

Data was collected through survey research and court data reviews. Surveys were conducted with victims and defendants involved in misdemeanor criminal cases in Frederick and Washington Counties. Both counties are geographically and demographically similar. The States' Attorney's Office in Washington County refers some criminal cases (see below for criteria) to mediation prior to their trial date. These cases constitute the treatment (mediation) group. The States' Attorney's Office in Frederick County does not refer cases to mediation. These cases constitute the comparison group.

### **Selecting Cases - Mediation Cases in Washington County**

Mediated cases were selected from cases referred by the Washington County State's Attorney's Office to the Washington County Community Mediation Center. Because mediation is voluntary, in approximately 50 percent of the cases referred, parties agree to participate in mediation and a mediation is scheduled and completed. To select mediation cases to be studied, the researchers communicated frequently with center staff and were notified via email when a case referred by the State's Attorney Office case was scheduled for mediation. Every scheduled mediation which could be attended by the researcher was included in the study. If the parties agreed to participate in the mediation, one researcher was physically present at the beginning of the session to explain the project and obtain consent.

### **Selecting Cases - Control Cases in Frederick County District Court of Maryland**

In order to create an equivalent comparison group in Frederick County, it was necessary to create a profile of cases which otherwise might have been referred to mediation, if they had been filed in Washington County. To accomplish this, the research coordinator interviewed three prosecutors in the State's Attorney's Office of Washington County to discuss the criteria used to refer cases to mediation. This information was used to determine what characteristics the

Washington County State's Attorney's Office considers when referring cases to mediation, and how they are used.

The following criteria was established: Cases were never considered eligible if the defendant in the case had a prior felony conviction, multiple misdemeanor charges, or outstanding warrants. However, if the defendant had one previous misdemeanor charge with a case disposition of nolle prosequere, it was considered eligible. In reviewing charges, cases were not eligible if charges included any type of weapon, drugs, or were more serious than second degree assault. Eligible charges for cases included, but were not limited to: second degree assault, telephone misuse, harassment, malicious destruction of property under 500 dollars, theft under 1,000 dollars and disorderly conduct.

In addition, the relationship between parties was an important deciding factor during screening. Any participant who was involved in a current custody case at the time the charges were filed was not eligible for this study. The prosecutors sought cases for mediation where the incident occurred between individuals who know each other, and will continue to have a relationship after the court case concludes. This includes, but was not limited to, family members, neighbors, friends, and especially parties who live together, or in close proximity to one another. Cases involving domestic violence were generally excluded.

A screening document was created based on the above criteria (Appendix A) and used by the researchers to review potential control cases in Frederick. The screening items include: information on the defendant's criminal record, charges in the case, relationship between parties, cross-charges, and the type of incident. Accordingly, the eligibility requirements in the screening document match the eligibility requirements of the Washington County State's Attorney's Office criteria for referring a case to mediation at the Washington County Community Mediation Center. This ensured that all cases selected were roughly similar, across a variety of characteristics, to cases referred to mediation in Washington County.

To select comparison cases in Frederick County, trained researchers went to the District Court of Maryland's Criminal Clerk's Office in Frederick County, at least once a week and examined recently filed criminal cases. Researchers reviewed cases based on the screening tool, in order to determine which cases were potentially eligible for inclusion in the study.

After cases were screened for inclusion in the study, they were entered into a database and each participant was sent an introduction letter (Appendix B). The introductory letter briefly described the research and informed potential participants that a researcher could be contacting them about their court case. If there was no address listed on the charging document, researchers would check the White Pages website to search for individuals. Every few days, researchers monitored the cases via Maryland Judiciary Case Search to check if the defendant in the case had been served with the criminal summons in the case. Once the defendant was served, the researcher would attempt to contact them via telephone using the phone number stated on the charging document.

## **Gathering Data: Survey Data – Mediation Group**

In order to maximize survey participation in the Mediation Group, surveys were conducted when participants arrived for their mediation. A researcher met the participants, explained the research, and got consent. The researcher then separated participants into different rooms and put each on the phone with a researcher in another location who conducted the survey. This method was used both for the efficiency, so that both interviews could take place simultaneously, and for comparative purposes, because in the control cases, interviews were conducted by phone. Participants were mailed a \$10 check for their participation in the initial survey.

## **Gathering Data: Survey Data – Comparison Group**

For comparison cases, the survey was generally conducted via telephone within two weeks of the criminal filing. This timeframe was selected to ensure the inclusion of cases in the data set that were similar to those in the mediation group. In Frederick County, State's Attorney's Office personnel indicated that they often nolle prosequere cases that are similar to those that the Washington County SAO sends to mediation. The Frederick County SAO further indicated that they often make this decision soon after the case has been filed and they inform participants of their intention to do this well before the court date. In order to ensure that we captured these same cases in the data set and that we spoke to individuals before they knew the outcome of their case, it was important to survey participants within a week or two of filing. The first question the researchers asked when they reached participants was whether they knew about any decision that the SAO had made related to their case. If they indicated they were already aware of the SAO decision to nolle prosequere the case, then the interview was terminated and the case was not included in the data set. One researcher and six interns were trained to administer the survey instruments (see Appendix C). The interviewer obtained consent before proceeding with the survey and as an incentive for participation, participants were mailed a check for \$10 for every survey completed.

A second survey was administered to both the mediation and the comparison groups, approximately three months after their court case was concluded. If the case was continued or their court date extended, the three-month timeline was similarly extended.

## **Court Data Reviews**

Additional data was obtained through reviews of court data. Researchers examined court records to determine the final disposition of the case, any sentencing that resulted from the case, as well as if the same participants returned to court for subsequent criminal or civil cases in the next 12 months.

## Challenges

Contacting participants via telephone presented a substantial challenge. This was due to various reasons, a significant one being that charging documents had missing contact information because the complainant is not required to give this information. In addition, many telephone numbers, specifically ones written on charging documents filed through a commissioner's office, were illegible because they were typically handwritten by the complainant. Furthermore, telephone numbers that were legible were often invalid, had been disconnected, or had no voicemail activated, so the line would continuously ring. It often took many attempted calls before participants could be reached for the interview. After five or six failed attempts, the participants were determined to be unreachable.

## Case Level Analysis

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### Case Level Data Set

Table 1 below provides the definitions of the variables and Table 2 provides the summary statistics for the Case Level Data.

*Table 1: Case Level Variable Definitions*

<b>Variable Name</b>	<b>Definition</b>
Mediated	Participants attended mediation.
Control	Participants did not attend mediation.
Number of Sessions	Number of mediation sessions
Cross-Charged	Charges against both parties, such that both are victims and both defendants. Gathered from charging documents and case search.
Attorney Involved	Are you being represented by a lawyer? If no, have you consulted with a lawyer?
Relationship Length	How long have you known the other person involved in these charges? (Months)
Prior Conversations	Prior to today, have you had a conversation with the other person/people involved in this case to try to resolve these issues?
Issue Timeframe	How long have the issues that led to the charges been going on? (Months)
Police Called	Have the police been called? (One or more participants answered yes)
Related Case	Other than these charges, have other cases been filed related to these issues? (One or more participants answered yes)

**For the following Prompts, Participants ranked whether they Strongly Agreed (5), Agreed (4), Neither Agreed nor Disagreed (3), Disagreed (2), or Strongly Disagreed (1) with the following statements. These responses were then averaged across all participants in the case who responded to our Pre-test survey.**

Number of Ways	I think there are a number of different ways to resolve the issues that led to these charges.
Importance of My Needs	It's important to me that I get my needs met in the issues that led to these charges.
Understanding other	It's important that I understand what the other person/people want in the issues that led to these charges.
Learn they're Wrong	The other person/people need to learn that they are wrong in the issues that led to these charges.
Importance of their Needs	It's important that the other person/people get their needs met in the issues that led to these charges
Importance of Positive Relationship	It's important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.
No Control	I feel like I have no control over what happens in the issues that led to these charges.
Opposite Wants	The other person/people involved in the issues that led to these charges want the exact opposite of what I want.
Can Talk	I can talk about my concerns to the person/people involved in the issues which led to these charges.
No Impact	It doesn't seem to make any difference what I do in regard to the issues that led to these charges, it'll just remain the same.
Conflict is Negative	In general, conflict is a negative thing.
Prepared	I feel prepared to go to trial.
<p><b><i>Participants were asked "What is your relationship to the other party in this court case?" and selected one of the following responses: Friend/Acquaintance, Boy/Girlfriend, Ex-boy/girlfriend, Domestic Partners/Spouses, Separated/Divorced, Other Family, Employer/Employee, Former Emp/Employee, Co-workers, Neighbors, Room/Housemates, Strangers, Landlord/Tenant, Customer/Business, Other</i></b></p>	
Spouses	Domestic Partners/Spouses
Lovers/Ex-lovers	Boy/Girlfriend, Ex-boy/girlfriend, Separated/Divorced, Co-parents
Other Family	Other Family, Parent-Child

Personal	Friend, Roommate, Neighbors
Not Personal	Strangers, Customer/Business, Landlord/Tenant, Employer/Employee
<b>Court Data</b>	
2nd Degree Assault	Number of 2 <sup>nd</sup> Degree Assault charges in the case.
Malicious Destruction	Number of Malicious Destruction of Property charges in the case.
Theft	Number of Theft charges in the case.
Telephone Misuse	Number of Telephone Misuse Charges in the case.
Trespassing	Number of Trespassing Charges in the case.
Harassment	Number of Harassment Charges in the case.
Disturb the Peace	Number of disturbing the peace charges in the case.
Violate Ex parte	Number of charges of violation of ex parte orders/peace orders/stay away orders in the case.
Defendant Arrested	The Defendant in the case was arrested.
Nolle Prose	1 if the Judicial Outcome was Nolle Prose, 0 if otherwise
<b><i>Outcome Variables</i></b>	
Judicial Action (Short Term)	1 if either party requests a jury trial, Guilty, Not Guilty, Probation Before Judgement (any court action); 0 if Nol Prose or Stet
Jury Trial Prayed (Short Term)	1 if either party requests a jury trial, 0 if not
Supervised Probation or Jail (Short Term)	1 if supervised probation or incarceration (not suspended); 0 if not (including unsupervised probation)
Resulted in Record (Short Term)	1 if incarceration or probation other than probation before judgement; 0 if not
Criminal Return 12 Months	1 if the same participants had a new criminal charge, a re-opening of the case from the inactive docket, or a violation of probation from the original charge in the 12 months from the original court date; 0 if not
Criminal Return 6 Months	1 if the same participants had a new criminal charge, a re-opening of the case from the inactive docket, or a violation of probation from the original charge in the 6 months from the original court date; 0 if not
Civil Return 12 Months	1 if the same participants had a case in civil court in the we months from the original criminal court date, 0 if not

Table 2: Summary Statistics for Each Variable – Data by Case

Variable Name	N	Frequency	Percent	Range	Mean (SD)
Mediated	206	78	38%		
Control	206	128	62%		
Number of Sessions	206			0 to 10	0.64 (1.16)
Cross-Charged	206	58	28%		
Attorney Present	203	119	59%		
Relationship Length	196			0 to 792	123.97 (148.18)
Prior Conversations	192	84	44%		
Issue Timeframe	196			0 to 480	21.09 (51.49)
Police Called	174	139	80%		
Related Case	202	79	39%		
Number of Ways	204			1 to 5	3.93 (1.14)
Importance of my Needs	203			1 to 5	4.42 (.63)
Understanding Other	203			1 to 5	3.70 (1.14)
Learn they're Wrong	203			1 to 5	4.28 (.88)
Importance of their Needs	203			1 to 5	3.50 (1.15)
Importance of Positive	203			1 to 5	3.29 (1.39)
No Control	202			1 to 5	3.61 (1.05)
Opposite wants	202			1 to 5	3.22 (1.11)
Can talk	202			1 to 5	2.66 (1.34)
No impact	202			1 to 5	3.36 (1.09)
Conflict is negative	202			1 to 5	4.09 (.75)
Prepared	202			1 to 5	3.74 (.97)
Spouses	203	32	16%		
Lovers/Ex-lovers	206	74	36%		
Other Family	206	39	19%		
Personal	206	39	19%		
Not Personal	206	16	8%		
2nd Degree Assault	206			0 to 6	0.98 (.82)
Malicious Destruction	206			0 to 1	0.10 (.30)
Theft	206			0 to 6	0.09 (.50)
Telephone Misuse	206			0 to 2	0.04 (.23)
Trespassing	206			0 to 3	0.05 (.29)
Harassment	206			0 to 1	0.07 (.25)
Disturb the Peace	206			0 to 1	0.02 (.14)
Violate ex Parte	206			0 to 4	0.21 (.63)
Defendant Arrested	201	44	22%		
Nolle Prose	207	159	77%		
Judicial Action	206	43	21%		
Jury Trial Prayed	206	19	9%		
Supervised Probation or Jail	206	16	8%		
Resulted in Record	205	16	8%		
Criminal Return 12 Months	202	15	7%		

Criminal Return 6 Months	217	14	6%		
Civil Return 12 Months	203	23	11%		

### Potential Selection Bias Analysis

While great care was taken to create a control group with similar characteristics, there still may be differences between those who end up receiving mediation and those who do not. These differences may include differences in the case characteristics or they may be in the attitude of the participants who ultimately end up making it to the mediation table. This potential selection bias (difference in who ends up receiving the treatment and who does not) may also affect the outcomes of interest. Therefore, we need to consider the differences between the two groups and then account for these differences in the analysis. The difference of means and chi-squared tables below present an overview of the differences.

Tables 3-4 below show the difference of means and chi-squared results for pre-test measures.

*Table 3: Differences between Treatment and Control Group - Pre Intervention, Chi-squared Results*

*Table 3a: Results of Chi-squared Test for ADR by “Cross-charged”*

	ADR	Standard Court Process
Cross-charged	37 (63%)	21 (36%)
Not cross-charged	42 (28%)	106 (71%)
Pearson Chi2= 22.1052, df= 1, Pr= 0.000**		

*Table 3b: Results of Chi-squared Test for ADR by “Attorney Involved”*

	ADR	Standard Court Process
Attorney Involved	53 (44%)	66 (55%)
No Attorney	26 (30%)	58 (69%)
Pearson Chi2= 3.8231 , df= 1 , Pr= 0.038*		

*Table 3c: Results of Chi-squared Test for ADR by “Prior Conversations”*

	ADR	Standard Court Process
Prior Conversations	47 (55%)	38 (44%)
No Prior Conversation	32 (29%)	75 (70%)
Pearson Chi2= 12.6078, df= 1, Pr= 0.000**		



*Table 3d: Results of Chi-squared Test for ADR by “Police Called”*

	ADR	Standard Court Process
Police Called	49 (35%)	91 (65%)
No Police Called	6 (17%)	28 (82%)
Pearson Chi2= 3.8106, df= 1, Pr= 0.051		

*Table 3e: Results of Chi-squared Test for ADR by “Related Case”*

	ADR	Standard Court Process
Related Case	28 (35%)	51 (64%)
No Related Case	51 (41%)	72 (58%)
Pearson Chi2=0.7321, df=1, Pr=0.392		

*Table 3f: Results of Chi-squared Test for ADR by “Spouses”*

	ADR	Standard Court Process
Spouses	9 (27%)	24 (72%)
Not spouses	70 (41%)	100 (58%)
Pearson Chi2= 2.2474, df= 1, Pr= 0.134		

*Table 3g: Results of Chi-squared Test for ADR by “Lovers/Ex-lovers”*

	ADR	Standard Court Process
Lovers/Ex-lovers	27 (36%)	47 (63%)
Neither Lovers nor ex-lovers	52 (39%)	80 (60%)
Pearson Chi2= 0.1695, df= 1, Pr= 0.681		

*Table 3h: Results of Chi-squared Test for ADR by “Personal Relationship”*

	ADR	Standard Court Process
Personal Relationship	19 (47%)	21 (52%)
Other	60 (36%)	106 (63%)
Pearson Chi2= 1.7580, df= 1, Pr= 0.185		

*Table 3i: Results of Chi-squared Test for ADR by “Defendant Arrested”*

	ADR	Standard Court Process
Defendant Arrested	19 (43%)	25 (56%)

Defendant Not Arrested	56 (35%)	101 (64%)
Pearson Chi2= 0.8294, df= 1, Pr= 0.362		

*Table 3j: Results of Chi-squared Test for ADR by “Other Family”*

	ADR	Standard Court Process
Other Family	18 (45%)	22 (55%)
Other/Not other family (what to call this)	61 (36%)	105 (63%)
Pearson Chi2= 0.9286, df= 1, Pr= 0.335		

*Table 3k: Results of Chi-squared Test for ADR by “Not Personal”*

	ADR	Standard Court Process
Not Personal	7 (43%)	9 (56%)
Other	72 (37%)	118 (62%)
Pearson Chi2= 0.2140, df= 1, Pr= 0.644		

*Table 3l: Results of Chi-squared Test for ADR by Nolle Prose (for long term analysis)*

	ADR	Standard Court Process
Nolle Prose	74 (47%)	85 (53%)
Not Nolle Prose	6 (13%)	42 (88%)
Pearson Chi2= 18.0184, df= 1, Pr= 0.000		

*Table 4: Difference of Means of Pre-test Measures: Control Minus Treatment*

	Mediation Group			Control group			Difference
	N	Mean	SD	N	Mean	SD	
Relationship Length	71	138.88	18.35	125	115.5	144.31	-23.38
Issue Timeframe	78	22.47	47.74	118	20.17	54.02	-2.3
2nd Degree Assault	79	1.2	0.79	127	0.83	0.81	-0.37*
Malicious Destruction	79	0.11	0.32	127	0.09	0.28	-0.02
Theft	79	0.05	0.22	127	0.11	0.61	0.06
Telephone Misuse	79	0.05	0.22	127	0.04	0.23	-0.01
Trespassing	79	0.05	0.22	127	0.05	0.33	0
Harassment	79	0.04	0.19	127	0.09	0.28	0.05
Disturb the Peace	79	0.04	0.19	127	0.01	0.09	-0.03

Violate Exparte	79	0.13	0.56	127	0.26	0.67	0.13
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\* Difference between those in the Mediation Group to those in the comparison group is significant  $p < .05$  using a two-tailed test

† Difference between those in the Mediation Group to those in the comparison group is significant  $p < .10$  using a two-tailed test

There are statistically significant differences for the following variables at the case level:

- ❖ Cross-Charges
- ❖ Attorney Involved
- ❖ Prior Conversation
- ❖ Second Degree Assault
- ❖ Nolle Prose (for long term analysis)

We address these issues in two different ways in the analysis. First, we use propensity score matching (PSM). PSM is a statistical technique that matches characteristics among the members of the treatment and comparison groups with a “propensity score”. This allows for a consideration of the average difference in the outcome for those who received the treatment and a “similar” case from the control group that was deemed “similar” based on how it scored. PSM first gives us the average difference on the outcome variable of interest. It then allows us to adjust the data set to only include those variables in the control group which “match” in some way the variables in the Mediation Group. This refined data set can then be used for logistic regression analysis.

Logistic regression analysis allows us to consider the range of factors that might impact the outcome of interest. This allows us to isolate the impact of the treatment holding constant for other factors which might affect the outcome. In this logistic regression, we can include other variables that affect the outcome of interest. In particular, we can include those that were significant in predicting the outcome of interest while we were going through the PSM process and others for which there is a theoretical reason to believe there may be an impact.

Data for these analyses came from both court records and from participant interviews. For every case in the analysis, researchers spoke to at least one participant and in some cases spoke with two participants. Much of the data gathered offered information about the legal situation, the relationships, and some of the history. Participant interviews also included questions that measured their attitudes toward the other participant, the situation, and conflict in general. The original purpose of including these questions was to use to measure the difference from the pre-test to the post-test within any one individual. However, once the data was collected and available, it created the option to use this data within the propensity score matching and logistic regression in order to consider the possible differences in attitude between people who ended up in mediation and those who did not. Although there are interesting theoretical

questions to be answered by either examining participants’ attitudes as a control variable or by examining the potential changes in attitude, ultimately the data collection limitations dictated the analyses.

Because of the data collection challenges outlined above, interviews with participants in the mediated cases occurred in-person immediately before the mediation session. Interviews with the participants in the comparison group occurred within days of the case filing and occurred via telephone. This data collection system was the most efficient way to maximize the number of similar cases in the data set, but it also meant that participants in the Mediation Group may have been in a different place in terms of emotions and attitudes than participants in the control group. While we might expect some difference in attitude between those in mediation and those in the control group, the data collection may overestimate the difference. Therefore, we included the pre-test attitude variables in the analysis. One potential drawback of this approach is that we may be underestimating the impact of mediation; however, in the interest of being particularly cautious about selection bias, we felt this was appropriate to include these variable.

**Summary Attitudinal Variables: Case Level Data**

Principal component analysis was used to create index variables of the participants’ attitudes. For principal component analysis, the minimum Eigen value was set at 1, and varimax was used for the factor matrix rotation. The outputs were reviewed with settings to report loadings greater than 0.4 and determined to be either consistent with theory or at least not totally inconsistent with theory or conventional wisdom. New variables were created using the factor loadings associated with each of the variables. The new variables are defined in Table 5 below. The new variables are listed across the top of the following tables, with the variables that comprise them listed below. Principal component analysis of all of the attitudinal questions revealed three principal components.

*Table 5: Case Level Data Attitudes Prior to Mediation: Variables Created with Principal Component Analysis*

<b>P Understand</b>	<b>P Me First</b>	<b>P Conflict Negative</b>
“It’s important that I understand what the other person/people want in the issues that led to these charges.” (+0.52)	“It’s important to me that I get my needs met in the issues that led to these charges.” (+0.43)	“In general, conflict is a negative thing.” (+0.83)
“It’s important that the other person/people get their needs met in the issues that led to these charges.” (+0.56)	“The other person/people need to learn that they are wrong in the issues that led to these charges.” (+0.48)	

	“I feel like I have no control over what happens in the issues that led to these charges.” (+0.48)	
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Table 6, below, provides the difference of means between the control and Mediation Group for the new attitudinal variables.

*Table 6: Difference of Means of Pre-test Measures: Control minus Treatment*

	Mediation Group			Control group			Difference
	N	Mean	SD	N	Mean	SD	
P understand	79	0.89	1.13	120	-0.59	1.59	-1.48*
P Me First	79	-0.83	1.47	120	0.55	1.32	1.38*
P Conflict Negative	79	-0.22	0.8	120	0.15	1.19	0.37*

\* Difference between those in the Mediation Group to those in the comparison group is significant  $p < .05$  using a two-tailed test

### Case Level Data: Short Term Analysis

The first step of the process was to conduct propensity score matching. Variables included in this process were those that had a significant difference of means between the treatment and control group as well as others for which there were theoretical reasons to believe there may be differences. The following variables were included: Cross-Charged; Attorney Involved; Lovers/Ex-Lovers; Second Degree Assault; Malicious Destruction of Property; Violate Exparte Order; P Me First; P Understand; Prior Conversation; and Spouses.

Propensity scores were determined based on 2 nearest neighbors and with 6 blocks, the balancing property was satisfied. The treatment effects results are shown in the table below:

*Table 7: Average Treatment Effects*

	Judicial Action	Jury Trial Prayed	Supervised Probation or Jail
Mediated	-.27** (-3.28)	-.15** (-2.78)	-.10** (-3.38)

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

Table 7 shows that the average treatment effect for mediation is significant and negative on the variables Judicial Action, Jury Trial Prayed, and Supervised Probation/Jail.

Average treatment effects that are significant can then be accounted for when determining which observations will be included in the analysis, based on their propensity scores. Seventeen comparison group observations were excluded from further analysis based on PSM results. .

In determining the variables for inclusion in the logistic regression analysis, variables were included if they had a statistically significant difference of means between treatment and control group; they were significant in predicting if a case was in the mediation group in the propensity score matching process; or they were significant in predicting Judicial Action in the propensity score matching process. A check for correlation among all of these proposed variables revealed that none had correlations greater than 0.5, indicating that multi-collinearity was not a concern.

## Results

*Table 8: Logistic Regression Analysis Results: Mediation on Court Outcomes*

	Judicial Action	Jury Trial Prayed	Supervised Probation or Jail
Mediated	-1.99** (-3.08)	-1.81* (-2.00)	-2.33* (-1.98)
Cross-Charged	-1.30* (-2.07)	-0.28 (-0.36)	-1.15 (-1.02)
Attorney Involved	0.19 (0.44)	-0.95 (-1.68)	0.14 (0.23)
Prior Conversations	-0.37 (-0.73)	-0.27 (-0.41)	-0.74 (-1.00)
Spouses	0.71 (1.20)	0.61 (0.85)	0.89 (1.13)
2 <sup>nd</sup> Degree Assault	0.46 (1.66)	0.13 (0.37)	-0.24 (-0.44)
Malicious Destruction	1.59* (2.07)	1.21 (1.38)	0.49 (0.39)
Violate Ex Parte	0.79** (2.59)	0.18 (0.46)	-0.81 (-0.85)
Defendant Arrested	1.04* (2.01)	0.42 (0.67)	1.07 (1.56)
P Understand	-0.09 (-0.56)	0.16 (0.74)	-0.26 (-1.08)
P Me First	0.08	0.09	-0.40

	(0.44)	(0.38)	(-1.56)
Constant	-1.53** (-2.92)	-1.62** (-2.63)	-1.81* (-2.41)
Number of Observations	181	181	181
Pseudo R-squared	.2375	.1487	.2202

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

For the outcome Judicial Action, Table 8 above shows the following statistically significant outcomes:

- ❖ Mediation has a negative impact.
- ❖ Cross-charges has a negative impact.
- ❖ Malicious Destruction of Property has a positive impact.
- ❖ Violation of Stay Away Order has a positive impact.
- ❖ Defendant arrested has a positive impact.

For the outcome Jury Trial Prayed, the table above shows the following statistically significant outcomes:

- ❖ Mediation has a negative impact.

None of the other variables are statistically significant.

For the outcome Supervised Probation/Jail, the table above shows the following statistically significant outcomes:

- ❖ Mediation has a negative impact.

None of the other variables are statistically significant.

The same logistic regressions were conducted with the Number of Sessions variable instead of Mediated to determine if the number of sessions of mediation was significant.

*Table 9: Logistic Regression Analysis Results: Number of Sessions on Court Outcomes*

	Judicial Action	Jury Trial Prayed	Supervised Probation or Jail
Number of Sessions	-1.31* (-2.57)	-0.97 (1.55)	-1.74 (-1.64)
Cross-Charged	-1.37* (-2.19)	-0.42 (-0.54)	-1.25 (01.10)

Attorney Involved	0.22 (0.51)	-0.93 (-1.65)	0.15 (0.24)
Prior Conversations	-0.40 (-0.80)	-0.30 (-0.45)	-0.78 (-1.04)
Spouses	0.90 (1.50)	0.77 (1.10)	0.99 (1.24)
2 <sup>nd</sup> Degree Assault	0.46 (1.65)	0.12 (0.35)	-0.24 (-0.45)
Malicious Destruction	1.51* (2.02)	1.10 (1.29)	0.47 (0.38)
Violate Ex Parte	0.75* (2.52)	0.15 (0.40)	-0.86 (-0.87)
Defendant Arrested	1.07* (2.07)	0.43 (0.69)	1.08 (1.57)
P understand	-0.10 (-0.60)	0.14 (0.66)	0.25 (-1.05)
P Me First	0.10 (0.52)	0.12 (0.56)	-0.42 (-1.60)
Constant	1.58** (-2.98)	-1.68** (-2.72)	-1.81* (-2.39)
Number of Observations	181	181	181
Pseudo R-squared	.2424	.1429	.2334

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

For the outcome Judicial Action, the table above shows the following statistically significant outcomes:

- ❖ Number of Sessions has a negative impact.
- ❖ Cross-charges has a negative impact.
- ❖ Malicious Destruction of Property has a positive impact.
- ❖ Violation of Stay Away Order has a positive impact.
- ❖ Defendant arrested has a positive impact.

The equations above show no statistically significant impacts for the Jury Trial Prayed and Supervised Probation of Jail equations.

The predicted probability of a case resulting in Judicial Action is 5.3% for a mediated cases and 29% for a non-mediated cases. The predicted probability of a case resulting in a Jury Trial Prayed is 2.4% for a mediated case and 13% for a non-mediated case. The predicted



probability of a case resulting in Supervised Probation or Jail-time is 0.9% for a mediated case and 8.3% for a non-mediated case.

### Case Level Data: Long Term Analysis

The first step of the process was to conduct propensity score matching. Variables included in this process were those that had a significant difference of means between the treatment and control group as well as others for which there were theoretical reasons to believe there may be differences. The following variables were included: Cross-Charged; Attorney Involved; Second Degree Assault; Malicious Destruction of Property; Telephone Misuse; Nolle Prose; P Me First; P Understand; Prior Conversation; and Spouses.

Propensity scores were determined based on 2 nearest neighbors and with 5 blocks, the balancing property was satisfied. The treatment effects results are shown in the table below:

*Table 10: Average Treatment Effects*

	Criminal Return 12 Months
Mediated	-.90* (-2.54)

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

The table above shows that the Average Treatment Effect for mediation is significant and negative on the variables Criminal Return 12 Months.

This process determines which observations will be included based on the propensity scores. In this case, 33 control group observations are not included. These were then dropped out of the data set so that the subsequent logistic regression could be accomplished with a data set in which the treatment and control group “match” based on the propensity score matching.

In determining the variables for inclusion in the logistic regression analysis, variables were included if the z value was greater than 1.00 in the equation predicting Judicial Action in the propensity score matching process. No variables had a correlation of 0.5 or higher, so multicollinearity was not a concern.

*Table 11: Logistic Regression Analysis Results: Mediation on Return to Court*

	Criminal return 12 months	Criminal return 6 months	Civil return 12 months
Mediated	-1.66* (-2.06)	-1.2 (-1.57)	-0.49 (-0.82)
Cross-Charged	1.90* (2.43)	1.86* (2.44)	0.84 (1.53)

Malicious Destruction	1.50 (1.76)	1.01 (1.09)	0.49 (0.57)
Telephone Misuse	2.15* (2.33)	2.12* (2.35)	0.77 (0.99)
P understand	0.98 (0.38)	0.05 (0.18)	0.39 (1.65)
Prior Conversations	1.60 (1.74)	1.37 (1.51)	-0.55 (-0.80)
Spouses	0.74 (0.92)	0.68 (0.85)	1.10 (-0.30)
P Negative	-0.21 (-0.71)	-0.15 (-0.48)	-0.07 (0.78)
Constant	-4.14 (-4.78)	-4.22 (-4.98)	-2.92 (-3.54)
Number of Observations	166	180	167
Pseudo R-Squared	0.1826	0.1521	0.0779

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

For the outcome Criminal Return 12 Months, the table above shows the following statistically significant outcomes:

- ❖ Mediation has a negative impact.
- ❖ Cross-charges has a positive impact.
- ❖ Telephone Misuse of Property has a positive impact.

For the outcome Criminal Return 6 Months, the table above shows the following statistically significant outcomes:

- ❖ Cross-charges has a positive impact.
- ❖ Telephone Misuse of Property has a positive impact.

For the outcome Civil Return 12 Months, the table above shows none of the variables examined to be statistically significant.

The predicted probability of returning to criminal court in the subsequent 12 months for cases that went to mediation is 1.7% and the predicted probability of returning to criminal court in the subsequent 12 months for cases that went through the regular court process was 8.2%. Mediated case were 75% less likely to return to court in the subsequent 12 months.

## Participant Level Analysis

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### Participant Level Data Set

Table 12 below provides the definitions of the variables and Table 13 provides the summary statistics for the Case Level Data.

*Table 12: Definitions*

Variables that were previously defined for the case level data set are not defined again here. The only difference between those variables and these would be that if there were information from two participants, they would have been averaged for the case but they would be separate observations for the participant level data set.

Variable Name	Definition
<b><i>For the following Prompts, Participants ranked whether they Strongly Agreed (5), Agreed (4), Neither Agreed nor Disagreed (3), Disagreed (2), or Strongly Disagreed (1) with the following statements.</i></b>	
Issues Resolved	I feel like the issues that brought us to court three months ago are fully resolved.
Won't Happen Again	As a result of the court proceedings, I am confident this incident will not occur again.
Satisfied with Judicial Interactions	I am satisfied with my interaction with the judicial system in this case.
Court is Fair	The court system cares about helping people resolve disputes in a fair manner.
Needs Met	My needs have been met in this situation.
<b><i>For the following Prompts, Participants ranked whether they were Very Satisfied (5), Satisfied (4), Neither Satisfied nor Dissatisfied (3), Dissatisfied (2), or Very Dissatisfied (1) with the following statements.</i></b>	
Satisfied with Outcome	Three months after your court proceedings, how satisfied are you with the outcome?
<b><i>For the following Prompts, Participants were given choices of Completely (5), Mostly (4), Partially (3), A little (2), or Not at all (1) with the following statements.</i></b>	
Outcome Worked	How well is the outcome you reached in court working for you?
Follow Through	How well did you follow through on what you were supposed to do, based on the mediation agreement or the court's direction to you?

Other Followed Through	How well did the other person follow through on what they were supposed to do, based on the mediation agreement or the court's direction?
New Problems	Have new problems with the other person in this case (which you did not raise in the initial charges) arisen in the last three months?
Personal Inconveniences	In the last three months since the court proceedings, have you had any personal inconveniences (e.g. missed work, change in your routine, lack of sleep, health issues, situation weighing on your mind etc.) as a result of this situation?
Financial Costs	In the last three months, have you had any personal financial costs as a result of the issues that brought you to court three months ago, other than any amount decided in court or mediation?
Childcare	If you care for dependents (children or other dependents), did you require any added help with care in order to participate in legal or mediation activities for this situation?
Violence	Has there been any violence as a result of the situation since the court proceedings ended?
Contact with other	In the last three months, have you had any contact with the other parties involved in the case, since the case ended? (Select None; A little; A lot)
Quality of Interactions	Are the interactions worse, the same, or better than three months ago?
Court to Follow-up	Number of days between court date and participation in follow-up survey

*Table 13: Summary Statistics for Each Variable: Data by Participant*

The summary statistics below are for the participant level data set. These statistics may vary from the case level data when more than one party participated in the study.

Variable Name	N	Frequency	Percent	Range	Mean (SD)
Mediated	115	52	47%		
Control	115	52	53%		
How Responsible	114			0 to 2	0.41 (0.55)

Attorney Involved	113	52	46%		
Relationship Length	112			0 to 792	124.18 (156.89)
Issue Length	108			0 to 456	22.30 (51.85)
Police Called	115	89	77%		
Physical Assault	113	72	64%		
Related Case	114	39	34%		
Prepared	115			1 to 5	3.63 (1.14)
Spouses	115	20	17%		
Mediated	115	54	47%		
2nd Degree Assault	115			0 to 4	0.97 (0.80)
Malicious Destruction	115	9	8%		
Theft	115	2	2%		
Telephone Misuse	115			0 to 2	0.06 (0.27)
Trespassing	115			0 to 3	0.78 (0.38)
Harassment	115	10	9%		
Disturb the Peace	115	3	3%		
Issues Resolved	114			1 to 5	3.04 (1.40)
Won't Happen Again	114			1 to 5	3.57 (1.40)
Satisfied with Judicial Interactions	114			1 to 5	3.38 (1.38)
Court is Fair	114			1 to 5	3.39 (1.35)
Needs Met	111			1 to 5	3.33 (1.35)
Satisfied with Outcome	113			1 to 5	3.35 (1.53)
Outcome Worked	111			1 to 5	3.64 (1.67)
Follow Through	101			1 to 5	4.78 (0.63)
Other Followed Through	103			1 to 5	3.14 (1.70)
Contact with other	112			0 to 2	0.89 (0.83)
Quality of Interactions	68			1 to 3	2.60 (0.62)
New Problems	111	21	19%		
Personal Inconveniences	114	63	55%		
Financial Cost	112	30	27%		
Childcare	108	15	14%		
Violence	109	8	7%		

Cross-Charged	115	36	31%		
Nolle Prose	115	91	79%		
Court to Follow-up	112			10 to 318	136.83 (65.91)
Victim	113	71	63%		
Defendant	113	58	51%		
Defendant Arrested	112	26	23%		
Lovers/Ex-lovers	115	36	31%		
Other Family	115	26	23%		
Personal	115	16	14%		
Not Personal	115	3	3%		

### Selection Bias Analysis

Participant level data allows for an analysis of participants report on their experiences of the process and the impact over time after the mediation or court process was complete.

As with the case level analysis, despite the care taken to create a comparison group with similar characteristics, there still may be differences between those who end up attending mediation and those who do not. These differences may include differences in the case characteristics or they may be in the attitude of the participants who ultimately end up making it to the mediation table. This potential selection bias (difference in who ends up receiving the treatment and who does not) may also affect the outcomes of interest. Therefore, we need to consider the differences between the two groups and then account for these differences in the analysis. The difference of means and chi-squared tables below present an overview of the differences.

Tables 14a-n below show the difference of means and chi-squared results for pre-test measures.

*Table 14a: Difference of Means of Pre-test Measures: Control Minus Treatment*

	Mediation group			Control group			Difference
	N	Mean	SD	N	Mean	SD	
How Responsible	53	0.53	0.07	61	0.31	0.56	-0.22*
Relationship Length	51	117.57	126.81	61	129.7	179.07	12.13
Issue Length	52	30.37	69.39	56	14.8	25.43	-15.57†
Police Called	54	0.81	0.39	61	0.74	0.44	-0.07
2nd Degree Assault	54	1.24	0.85	61	0.74	0.68	-0.5*
Malicious Destruction	54	0.07	0.26	61	0.08	0.28	0.01
Theft	54	0	0	61	0.03	0.18	0.03

Telephone Misuse	54	0.06	0.23	61	0.07	0.31	0.01
Trespassing	54	0.06	0.23	61	0.1	0.47	0.04
Harassment	54	0.04	0.19	61	0.13	0.34	0.09†
Disturb the Peace	54	0.04	0.19	61	0.02	0.13	-0.02
Violate Ex Parte	54	0.11	0.6	61	0.31	0.76	0.2
Court Date to Follow-up	52	135.78	72.62	60	137.74	60.11	1.96

\* Difference between those in the Mediation Group to those in the comparison group is significant  $p < .05$  using a two-tailed test

† Difference between those in the Mediation Group to those in the comparison group is significant  $p < .10$  using a two-tailed test

*Table 14b: Results of Chi-squared Test for ADR by “Police Called”*

	ADR	Standard Court Process
No Police Called	10 (38%)	16 (61%)
Police Called	44 (49%)	45 (50%)
Pearson Chi2= 0.9734, df= 1, Pr= 0.324		

*Table 14c: Results of Chi-squared Test for ADR by “Physical Assault”*

	ADR	Standard Court Process
No Physical Assault	18 (43%)	23 (56%)
Physical Assault	34 (47%)	38 (52%)
Pearson Chi2= 0.1159, df= 1, Pr= 0.734		

*Table 14d: Results of Chi-squared Test for ADR by “Related Case”*

	ADR	Standard Court Process
No Related Case	40 (53%)	35 (46%)
Related Case	14 (35%)	25 (64%)
Pearson Chi2= 3.1288, df= 1, Pr= 0.077		

*Table 14e: Results of Chi-squared Test for ADR by “Spouses”*

	ADR	Standard Court Process
Not Spouses	50 (52%)	46 (47%)
Spouses	4 (21%)	15 (78%)

Pearson Chi2= 6.1317, df= 1, Pr= 0.013\*

*Table 14f: Results of Chi-squared Test for ADR by “Lovers/Ex-Lovers”*

	ADR	Standard Court Process
Not Lovers/Ex-Lovers	35 (44%)	44 (55%)
Lovers/Ex-Lovers	19 (52%)	17 (47%)
Pearson Chi2= 0.7130, df= 1, Pr= 0.398		

*Table 14g: Results of Chi-squared Test for ADR by “Other family”*

	ADR	Standard Court Process
Not Other Family	40 (44%)	49 (55%)
Other Family	14 (53%)	12 (46%)
Pearson Chi2= 0.6402, df= 1, Pr= 0.424		

*Table 14h: Results of Chi-squared Test for ADR by “Personal”*

	ADR	Standard Court Process
Personal=0	43 (43%)	56 (56%)
Personal=1	11 (68%)	5 (31%)
Pearson Chi2= 3.5441, df= 1, Pr= 0.060		

*Table 14i: Results of Chi-squared Test for ADR by “Not Personal”*

	ADR	Standard Court Process
Not Personal = 0	52 (46%)	59 (53%)
Not Personal = 1	2 (50%)	2 (50%)
Pearson Chi2= 0.0154, df= 1, Pr= 0.901		

*Table 14j: Results of Chi-squared Test for ADR by “Defendant arrested”*

	ADR	Standard Court Process
Defendant not arrested	40 (46%)	46 (53%)
Defendant arrested	12 (46%)	14 (53%)
Pearson Chi2= 0.0010, df= 1, Pr= 0.974		



*Table 14k: Results of Chi-squared Test for ADR by “Cross-Charged”*

	ADR	Standard Court Process
Not Cross-Charged	26 (32%)	53 (67%)
Cross-Charged	28 (77%)	8 (22%)
Pearson Chi2= 19.9869, df= 1, Pr= 0.000**		

*Table 14l: Results of Chi-squared Test for ADR by “Victim”*

	ADR	Standard Court Process
Not Victim	20 (47%)	22 (52%)
Victim	32 (45%)	39 (54%)
Pearson Chi2= 0.0690, df= 1, Pr= 0.793		

*Table 14m: Results of Chi-squared Test for ADR by “Defendant”*

	ADR	Standard Court Process
Not Defendant	19 (34%)	36 (65%)
Defendant	33 (56%)	25 (43%)
Pearson Chi2= 5.6772, df= 1, Pr= 0.017*		

*Table 14n: Results of Chi-squared Test for ADR by “Both Victim and Defendant”*

	ADR	Standard Court Process
Not Both Victim and Defendant	39 (40%)	58 (59%)
Both Victim and Defendant	13 (81%)	3 (18%)
Pearson Chi2= 0.0000, df= 1, Pr= 0.000**		

There are statistically significant differences for the following variables in the participant level data:

- ❖ How Responsible
- ❖ Spouses
- ❖ Second Degree Assault
- ❖ Harass
- ❖ Cross-Charged
- ❖ How Long Issues

## Summary Attitudinal Variables: Participant Level Data

Principal component analysis was used to create index variables out of several of the questions asked of participants in the pre-test and in the follow up tests. For principal component analysis, the minimum Eigen value was set at 1, and varimax was used for the factor matrix rotation. The outputs were reviewed with settings to report loadings greater than 0.4 and determined to be either consistent with theory or at least not totally inconsistent with theory or conventional wisdom. New variables were created using the factor loadings associated with each of the variables.

This process was done first with the pre-test attitudes, so that these could be used as control variables in measuring the impact of mediation on certain outcomes. It was then done a second time with the variables that reflected the change in the attitude from before the mediation to the interview several months after the mediation. This second group would be used as the dependent variables in the second set of analysis. Table 15 below defines the new variables that resulted from PCA with the pre-test variables. Table 16 below defines the new variables that resulted from PCA with the change from pre to post variables. Table 17 below defines the new variables that resulted from PCA with the questions that measured how well things were working for participants. For Table 17, loadings of .3 or above are reported. Table 18 below defines the variables that resulted from the PCA with the questions regarding new problems or inconveniences.

*Table 15: Attitudes Prior to Mediation: Variable Created with PCA*

<b>Pre Concerned Other</b>	<b>Pre Just Me</b>	<b>Pre Conflict Negative</b>
“It’s important that I understand what the other person/people want in the issues that led to these charges.” (+0.51)	“It’s important to me that I get my needs met in the issues that led to these charges.” (+0.44)	“In general, conflict is a negative thing.” (+0.87)
“It’s important that the other person/people get their needs met in the issues that led to these charges.” (+0.51)	“The other person/people need to learn that they are wrong in the issues that led to these charges.” (+0.57)	
“It’s important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.” (+0.46)	“I feel like I have no control over what happens in the issues that led to these charges.” (+0.52)	

Table 16: Difference of Means of Pre-test Measures: Control Minus Treatment

	Mediation Group			Control group			Difference
	N	Mean	SD	N	Mean	SD	
Concerned with Other	50	0.8	1.26	57	-0.7	1.74	-1.5**
Just Me	50	-0.65	1.47	57	0.57	1.15	1.22**
Conflict is Negative	50	-0.01	0.1	57	0.01	1.1	0.02

Table 17: Principal Component Analysis- Changes in Attitudes

Change in Understand	Change in Just Me	Change in Positive Talk	Change in Hopeless
“I think there are a number of different ways to resolve the issues that led to these charges.” (+0.56)	“It’s important to me that I get my needs met in the issues that led to these charges.” (+0.64)	“It’s important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.” (+0.71)	“It doesn’t seem to make any difference what I do in regard to the issues that led to these charges, it’ll just remain the same.” (+0.55)
“It’s important that the other person/people get their needs met in the issues that led to these charges.” (+0.47)	“The other person/people need to learn that they are wrong in the issues that led to these charges.” (+0.56)	“I can talk about my concerns to the person/people involved in the issues which led to these charges.” (+0.59)	“In general, conflict is a negative thing.” (+0.76)
“It’s important that the other person/people get their needs met in the issues that led to these charges” (+0.61)			

Table 18: Principal Component Analysis- Follow-up Report on Situation

Things good	I followed
-------------	------------

“I feel like the issues that brought us to court three months ago are fully resolved.” (+0.34)	“I followed through well on what I was supposed to do based on the mediation agreement/court’s direction to me.” (+0.88)
“As a result of the court proceedings, I am confident this incident will not occur again.” (+0.35)	
“I am satisfied with my interaction with the judicial system in this case.” (+0.37)	
“The court system cares about helping people resolve disputes in a fair manner.” (+0.36)	
“My needs have been met in this situation.” (+0.40)	
“I am satisfied with the outcome” (+0.34)	
“The outcome I reached in court is working well for me” (+0.35)	

*Table 19: Principal Component Analysis- Follow-up Report on Situation*

<b>Problems</b>	<b>Childcare</b>
“I have had new problems arise in the last three months (which I did not raise in the initial charges) with the other person in this case in the last three months” (+0.52)	“I required added help with care for children or other dependents in order to participate in legal or mediation activities for this situation.” (+0.92)
“I have had personal inconveniences (e.g. missed work, change in my routine, lack of sleep, health issues, situation weighing on my mind etc.) as a result of this situation.” (+0.51)	
“I have had personal financial costs as a result of the issues that brought me to court three months ago (other than the amount decided in court or mediation)” (+0.51)	
“There has been violence as a result of the situation since the court proceedings ended.” (+0.46)	

### **Participant Level Data: Follow-Up Report**

The participant level data was presented in two sections. In this first section, we conduct PSM and logistic regression analysis on the questions regarding how things are working since the mediation or court intervention. This is separated out from the analysis of the changes in

attitudes because of the nature of how the variables were created. In analyzing the answers regarding how things are working, we are able to use the pre-intervention attitudes as control variables. Because the pre-intervention attitudes are used in creating the change in attitude variable, they cannot be used as control variables in those equations. In this section we report on the analysis of the dependent variables regarding how participants report things were working for them. In the next section, we report on the changes in attitudes.

As with the case level analysis, PSM was used first. Variables included in this process were those that had a significant difference of means between the treatment and comparison group as well as others for which there were theoretical reasons to believe there may be differences. The following variables were included: How Responsible, How Long Issues, Police Called; Related Case; Spouses; Pre-Concerned Other; Pre-Just Me; Second Degree Assault; Harass; Cross-Charged; and Violate Ex-Parte Order.

Propensity scores were determined based on the statistical analysis of 2 nearest neighbors and with 5 blocks; the balancing property was satisfied. The treatment effects results are shown in the table below:

*Table 20: Average Treatment Effect*

	Things Good
Mediated	2.07* (2.36)

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

The table above shows that the average treatment effect for mediation is significant and positive on the variable Things Good.

This process determines which observations will be included based on the propensity scores. Twenty-eight comparison group observations were therefore excluded from further analysis based on the PSM

In determining the variables for inclusion in the logistic regression analysis, variables were included if they were significant in predicting if a case was in the mediation group in the propensity score matching process; or they were significant in predicting Things Good in the propensity score matching process. This analysis also included whether the participant responding to the questions was a victim in the case, although they may have been both a victim and defendant. A check for correlation among all of these proposed variables revealed that none were correlated at a rate greater than .5 and so there is no concern for multi-collinearity.

## Results

*Table 21: Logistic Regression Analysis*

	Things Good	Problems
Mediated	1.42* (2.20)	-0.08 (-0.21)
Pre Concerned Other	0.24 (1.24)	-0.32* (-2.73)
Pre Just Me	-0.24 (-1.03)	-0.27 (-0.20)
Pre Conflict Negative	0.26 (0.98)	-0.32* (-2.12)
Victim	-1.18* (-2.38)	0.50 (1.58)
Attorney Involved	-0.94 (-1.87)	0.77* (2.45)
2 <sup>nd</sup> Degree Assault	0.04 (0.10)	0.25 (-1.03)
Harassment	0.53 (0.62)	0.77 (1.19)
Court to Follow-up	0.00 (-0.33)	0.00 (-0.01)
Spouses	1.46 (1.98)	0.36 (0.69)
Violate Ex Parte	-0.32 (0.72)	0.01 (0.04)
Relationship Length	0.00 (-1.39)	-0.00** (4.22 )
Constant	0.56 (0.68)	-0.92 (-1.64)
Number of Observations	67	73
Adjusted R-Squared	0.3908	1.2124

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

For the outcome Things Good, the table above shows the following statistically significant outcomes:

- ❖ Mediation has a positive impact.
- ❖ Victim has a negative impact.

For the outcome New Problems, the table above shows the following statistically significant outcomes:

- ❖ Pre-Concerned for Others has a negative impact.
- ❖ Pre-Conflict Negative has a negative impact.
- ❖ Attorney Involved has a positive impact.
- ❖ How Long Known Each Other has a positive impact.

### **Participant Level Data: Change in Attitude**

In this section, we report on the analysis of the change in attitudes from before mediation or court and to the follow-up interview. Because the dependent variables in this section are created using the pre-mediation attitudes, we conduct this analysis separately and the pre-attitude variables were not used as control variables.

As with the case level analysis, PSM was used first. Variables included in this process were those that had a significant difference of means between the treatment and control group as well as others for which there were theoretical reasons to believe there may be differences. The following variables were included: How Responsible; How Long Issues; Related Case; Spouses; Second Degree Assault; Harass; Cross-Charged; Violate Ex-parte Order; and Spouses.

Propensity scores were determined based on statistical analysis of 2 nearest neighbors and with 5 blocks; the balancing property was satisfied. See Table 22 for the treatment effect results, which shows that the average treatment effect for mediation is not significant on any of the variables measured.

*Table 22: Average Treatment Effect*

	Change in Understand	Change in Just Me	Change in Positive Talk	Change in Hopeless
Mediated	0.25 (1.26)	0.12 (0.56)	-0.33 (-1.02)	0.23 (0.61)

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

Based on these PSM results, 11 comparison group observations were excluded from further analysis.

In determining the variables for inclusion in the logistic regression analysis, variables were included if they were significant in predicting the dependent variable in the propensity score matching process, as well as if they had been significant predictors in other parts of this analysis. This analysis also included whether the participant responding to the questions was a victim in the case, although they may have been both a victim and defendant. No correlations were greater than 0.5, so multi-collinearity was not a concern.

## Results

Table 23: Logistic Regression Analysis

	Ch Understand	Ch Just Me	Ch Positive Talk	Ch Hopeless
Mediated	-0.16 (-0.54)	-0.05 (-0.17)	-0.73** (-2.74)	-0.02 (-0.10)
Victim	-0.45 (-1.53)	-0.14 (-0.49)	0.10 (0.39)	0.03 (0.12)
Attorney Involved	-0.07 (-0.23)	-0.41 (-1.46)	-0.37 (-1.42)	0.45* (2.01)
2 <sup>nd</sup> Degree Assault	0.02 (0.07)	0.24 (1.00)	-0.06 (-0.28)	-0.27 (-1.46)
Harassment	-0.12 (-0.22)	0.31 (0.59)	-0.66 (-1.40)	-0.09 (-0.22)
Court to Follow-up	0.00 (0.28)	0.00 (1.74)	0.00 (-1.09)	0.00 (-1.16)
Spouses	0.46 (-1.12)	0.29 (0.72)	-0.20 (-0.55)	0.08 (0.24)
Violate Ex Parte	-0.70** (-3.12)	-0.08 (-0.34)	-0.14 (-0.71)	-0.01 (-0.06)
Relationship Length	-0.01* (-2.24)	0.00 (0.96)	0.01* (2.38)	0.00 (-0.33)
Constant	0.65 (1.38)	-0.53 (-1.14)	0.71 (1.69)	0.39 (1.07)
Number of Observations	97	97	97	97
Adjusted R-Squared	0.0876	-0.0038	0.0964	-0.0108

\* Significant at  $p < .05$  \*\* Significant at  $p < .01$

For the outcome Change Understand, Table 23 shows the following statistically significant outcomes:

- ❖ Violate Ex Parte has a negative impact.
- ❖ How Long Issues has a negative impact.

For the outcome Change Just Me none of the variables measured have a statistically significant impact.

For the outcome Change Possible to Talk, Table 23 shows the following statistically significant outcomes:



- ❖ Mediation has a negative impact.

For the outcome Change Hopeless, Table 23 above shows the following statistically significant outcomes:

- ❖ Attorney Involved has a positive impact.

## **Discussion**

This report demonstrates that mediation of criminal cases has a statistically significant impact on several crucial areas of interest, including judiciary impact in the short and long term and participants' experience of resolution. In the analysis of case data in the short term, mediation had a statistically significant and negative impact on the likelihood of any judicial action, the likelihood of a jury trial prayed, or the likelihood of supervised probation or jail-time. The predicted probability of a case resulting in Judicial Action is 5.3% for a mediated cases and 29% for a non-mediated cases. The predicted probability of a case resulting in a Jury Trial Prayed is 2.4% for a mediated case and 13% for a non-mediated case. The predicted probability of a case resulting in Supervised Probation or Jail-time is .9% for a mediated case and 8.3% for a non-mediated case. The predicted probabilities are calculated after taking into consideration the many other factors that may affect these outcomes. Another way to consider these findings is that a case that is not mediated is five times more likely to result in judicial action, five times more likely to result in jury trial prayed, and ten times more likely to result in supervised probation or jailtime.

In the analysis of case data in the longer term, mediation had a statistically significant and negative impact on the likelihood of the probability of those same participants returning to criminal court with new charges in the subsequent 12 months. Mediation did not have a statistically significant impact on returning to criminal court in the subsequent 6 months. This may be because it takes longer for the situation to escalate again to the point that people are finding themselves in the criminal system again. Mediation did not have a statistically significant impact on those individuals finding themselves in civil court in the subsequent 12 months.

The predicted probability of returning to criminal court in the subsequent 12 months for cases that went to mediation is 1.7% the predicted probability of returning to criminal court in the subsequent 12 months for cases that went through the regular court process was 8.2%. This means that cases that were not mediated were almost five times more likely to return to criminal court in the subsequent 12 months.

Throughout this analysis, great care has been taken to ensure appropriate comparisons and consideration of many possible factors affecting the outcomes of interest. This began with careful construction of the control group and collection of as much data about the case and participants at the beginning of the process. The analysis included difference of means and chi-squared tests to measure the difference between the groups and then propensity score matching

to create equivalent matching groups. This process was followed by the use of logistic and ordinary least squares regression analysis, which allowed for the isolation of the impact of mediation on the outcomes of interest.

These results are important in terms of their implications for judiciary as well as local law enforcement resources, in addition to their implications on the lives of the people involved in these conflicts.

In the analysis of participant data, participating in mediation has a positive and significant impact on participants reporting several months after the intervention that the outcome is working, the issues have been resolved, and they are satisfied with the process. This reinforces the findings in the case data and generally points to long term resolution.

In general, mediation does not have a statistically significant impact on the changes in attitudes among participants from before mediation to several months later. One exception to this, and a departure from the other findings in this study, is that mediation seems to have a statistically significant and negative impact on the shift in participants' attitudes related to believing that a positive relationship is important and that they can talk things through with the other participant.

There may be two reasons for this finding. First, it may be that mediation actually has a negative impact on these measures, making people believe they need mediation to work things out, rather than being able to do so on their own. Another possibility is that the answers participants give to the pre-mediation questions are somewhat inflated. The data above shows that there is a significant difference in means in the attitude of participants before mediation compared to those in the control group. In this study, we used this as one of the control factors. However, it could also be that participants about to enter mediation felt the need to appear to be more cooperative to the researchers and so these answers may have been "more positive". As such, there would be more of a shift to a "more normal" level within a few months. However, given that this finding emerges in the logistic regression analysis, but is not significant in the treatment effect analysis, this finding should be interpreted with caution.

Overall, participant reports and case level analysis reinforce each other in indicating that mediation resolves issues with outcomes that work in the long term and keep cases from returning to court with subsequent criminal charges. Mediation also results in the use of fewer court and law enforcement resources in the short and long term.

## **Limitations**

The primary limitation of this study was the small sample size, thereby lowering the power to detect statistically significant relationships between variables. . Furthermore, a larger data set would also allow for some more nuanced analysis, examining interactions between

variables or impacts on certain sub-groups. Ideally, this research will be replicated and with a larger data set.

# APPENDIX A: Summary

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# Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution

## Impact of Mediation on Criminal Misdemeanor Cases

This is the first study of its kind that compares mediated and non-mediated criminal misdemeanor cases with such great attention to creating a comparison group. This report explores the impacts in terms of cost to the court system for cases which are referred to mediation compared to cases which are not referred to mediation. It also explores the impact on the participants regarding how the situation has worked out for them. *This handout summarizes a multidimensional study that includes sophisticated data collection instruments and analysis tools. Information on accessing the full report can be found on the back of this flier.*

### Short Term Outcomes

The study found that mediation had a statistically significant impact in reducing the likelihood of:

- judicial action
- jury trial prayer
- supervised probation or jail-time

Mediated cases were five times less likely to result in judicial action, five times less likely to result in jury trial prayed, and ten times less likely to result in supervised probation or jail-time.



### Long Term Outcomes

Mediated cases were almost five times less likely to return to criminal court in the subsequent 12 months than those that were not mediated.

Mediation did not have a statistically significant impact on:

- individuals finding themselves in civil court in the subsequent 12 months



### Participant Follow-Up

Participating in the mediation has a positive and significant impact on participants reporting several months after the intervention that:

- the outcome is working
- the issues have been resolved
- they are satisfied with this process

This reinforces the findings on case outcomes, and generally points to long term resolution.



Overall, participant reports and case level analysis reinforce each other and indicate that **mediation resolves issues** with outcomes that work in the long term and keep cases from returning to court with subsequent criminal charges. **Mediation results in the use of fewer court and law enforcement resources in the short and long term.**

## DATA COLLECTION

The data for this study were collected from two Maryland counties: Washington and Frederick. Washington County and Frederick County are adjacent, and share similar geographic and demographic characteristics. These similarities led researchers to be confident that the two groups being compared were equivalent enough in ways other than the intervention itself. This allowed researchers to properly assess the impact of mediation. The Washington County State Attorney's Office (SAO) refers some criminal cases to mediation prior to a trial date and these cases served in the mediation (treatment) group. The Frederick County SAO does not offer mediation for criminal cases, and therefore those cases were used in the non-mediation (comparison) group.

The mediation group cases were identified from cases referred to mediation by the Washington County SAO. Researchers were then present for all mediation sessions they could attend, and cases were included in the data when mediation participants consented to inclusion in the study.

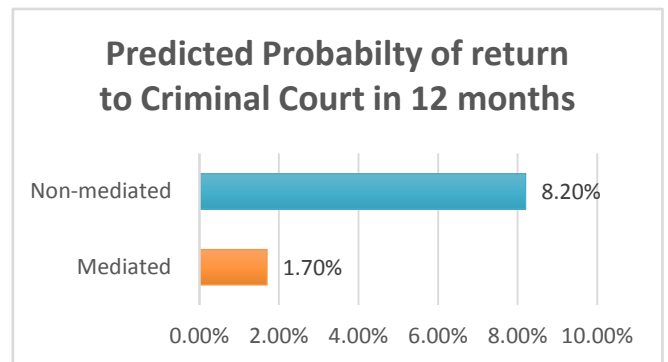
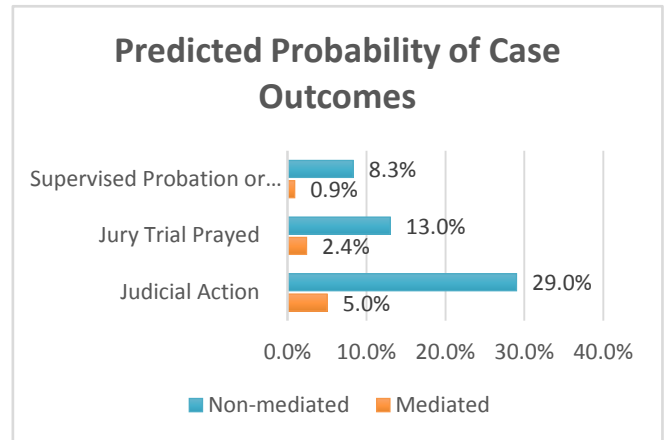
Non-mediation group cases from Frederick County were selected by researchers based on mediation referral criteria gathered from interviews with the Washington County SAO. This resulted in a group of cases that would have likely been referred to mediation had the option been available.

The Maryland Judiciary commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders, which includes ADR.

## PROCESS & ANALYSIS

The research methodology included the use of propensity score matching to consider possible selection bias and ensure cases being compared were essentially equivalent according to the variables measured. Additionally, the methodology used logistic regression analysis to isolate the effect of mediation and consider other factors that may influence the outcome.

As illustrated in the graphs below, the study found that mediated cases had far lower predicted probabilities for both continuing with court procedures or actions and returning to criminal court within a year than cases that were not mediated. These predicted probabilities were calculated after taking into consideration the many other factors that may affect these outcomes.



This research, commissioned by the **Maryland Judiciary**, is part of its Statewide Evaluation of ADR. The project was led by the Administrative Office of the Courts, and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by Community Mediation Maryland and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as lead researcher. Additional information about the research methods, data collection tools, and statistical analyses, and the full study can be found in the full report at: [www.mdcourts.gov/courtoperations/adrprojects.html](http://www.mdcourts.gov/courtoperations/adrprojects.html)



## APPENDIX B: Sample Protocol for Selecting Eligible Cases

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Maryland ADR Statewide Research  
**Sample Protocol for Selecting Eligible Cases**  
Frederick County State's Attorney's Office  
11/29/12

### **How cases will be screened and selected:**

\*This is a revised procedure, based on communication with Kelly Bruton, Teresa Bean, and the Clerk's office

1. Researchers will examine charging documents in Clerk's Office, the afternoon of, or day after, the file is created in the Clerk's Office.
2. When eligible cases are selected, researchers will begin contacting the complainant for the pre-trial interview and mail brochure.
3. After the defendant has been served (monitored via Case Search), researchers will begin contacting defendant for pre-trial interview and send brochure
  - a. Any attorney on record will be notified; if represented by the Public Defender's office, Haleigh will notify Mary Riley and Dave Littrell
4. To be an eligible case, the complainant must meet screener in allotted time, and both parties must complete the pre-trial interview.
  - a. If unsure, Haleigh may email Teresa to check if specific case were, in fact, screened
  - b. Any cases not screened will be dropped from the research study
5. As court date approaches, Haleigh will request specific dockets from criminal case manager be faxed when prepared (i.e., next Wednesday, morning and afternoon; next Thursday morning) and let Kelly know which days the upcoming week Research Assistants will be sitting in court
6. Haleigh will review docket, making note of any selected cases marked NP, and any other cases which may be eligible for survey
  - a. If other cases are selected from the docket, the file will be requested from the Clerk's Office, and all pre-trial interviews will be completed by phone before the trial date.
  - b. If represented, Haleigh will notify PD office or private attorney
7. **Eligible cases marked NP on docket** – research assistant will call complainant and defendant to ask post-trial interview question once date has passed
8. **Eligible cases appearing at trial**
  - a. Research Assistants will attend court to conduct post-trial interviews with permission of any present defense attorney

## Eligibility Requirements

Screening items, in order checked	Possibly Eligible, with further information from case file	Never Eligible
Criminal Record of defendant	<ul style="list-style-type: none"> <li>• First charge against defendant</li> <li>• Previous misdemeanor charges NP</li> </ul>	<ul style="list-style-type: none"> <li>• Defendant has prior felony conviction</li> <li>• Defendant has multiple misdemeanor charges</li> </ul>
Charges	<ul style="list-style-type: none"> <li>• 2<sup>nd</sup> degree assault</li> <li>• Telephone misuse</li> <li>• Harassment</li> <li>• Mal. Destruction under \$500</li> <li>• Theft under \$1,000</li> <li>• Disorderly conduct</li> <li>• Other minor misdemeanors</li> </ul>	<ul style="list-style-type: none"> <li>• Weapons charge</li> <li>• Drug charge</li> <li>• Violation of ex parte</li> <li>• Any charge more serious than 2<sup>nd</sup> degree assault</li> </ul>
Relationship between parties	<ul style="list-style-type: none"> <li>• Parties living together, or in close proximity, at time or incident</li> <li>• Parties will continue to have a relationship after the court case</li> <li>• Recurring incidents (NP) between same parties</li> </ul>	<ul style="list-style-type: none"> <li>• Active ex parte order</li> <li>• Current custody case</li> </ul>
Identical cross-charges by defendant and complainant	<ul style="list-style-type: none"> <li>• Cross-charges filed at similar times (within one day)</li> <li>• Cross-charges without independent witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Cross charges filed by defendant after release from custody</li> </ul>
Type of incident	<ul style="list-style-type: none"> <li>• Incident between family members, neighbors, or friends</li> <li>• Pushing/shoving/unclear injuries</li> <li>• Escalation of ongoing conflict</li> </ul>	<ul style="list-style-type: none"> <li>• Incident between one defendant and police</li> <li>• Incident between strangers</li> <li>• Incident with visible injuries</li> </ul>

### Breakdown of case types and charges:

The eligibility requirements above match the eligibility requirements of the Washington County State's Attorney's Office criteria for referring a case to mediation. With the criteria above, we can select cases which are roughly similar, across a variety of characteristics, to cases referred to



mediation in Washington County. However, because mediation is a voluntary referral, only about 50% of the cases referred agree to participate in mediation. Cases selected for comparison in Frederick County need to not only match the characteristics of *referred* cases, but also of *participating* cases.

The following breakdown represents our goals for what the final breakdown of cases will look like:

<b>Characteristic</b>	<b>% of Cases</b>
Cross charges	
Case has identical (same-day) cross charges*	34%
Case has no cross-charges filed	66%
How were charges filed?	
Commissioner's office	70%
Police summons	19%
Police arrest	13%
Marked by police as DV?	22%
Charges (any combination of)	
2 <sup>nd</sup> degree assault	44%
Malicious destruction of property under \$X	16%
Theft under \$10,000	13%
Telephone misuse	2%
Trespass	2%
Harassment	3%
Disturbing the peace	3%
Genders of parties	
All female parties	39%
All male parties	9%
Mixed genders	52%
Contact info on Commissioner's documents?	
All parties phone numbers listed	45%
One or more parties missing phone numbers	42%
All parties addresses are listed	80%
Complainant's address is <i>shielded</i>	6%
Relationship between parties	
Friends/Former friends	13%
Boy/Girlfriend or Exes	11%

Parent/Child	17%
Neighbors	11%
Co-parents (not married)	9%
Roommates	11%
Married	6%
Other Family	19%
Co-workers	0%
Unclear **	17%
Living together at the time of the incident	39%
Incident occurred because of:	
Racial issues	3%
Financial/Property issues	20%
Children in common	11%
Noise issues	2%
Alcohol	13%
Unclear**	55%

\* For cases with identical cross-charges, there would be several SAO cases combined into one case for our purposes. This case might include 2-5 defendants. In these instances, all charging documents will refer to the same incident.

\*\*There are two “unclear” categories, for relationship and reason for incident. In examining the Washington County charging documents, the relationship between the parties was unclear about 20% of the time, and the reason for the incident was unclear more than half the time. We expect to find similar ambiguity in the Frederick County charging documents. Therefore, not being able to determine the relationship or reason for the incident from the charging documents does not make a case ineligible, but would rather fall into one of the “unclear” categories.

**APPENDIX C: Letter of Invitation to Participate in Research**

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Greetings!

We'd like to ask you some questions about your recently filed criminal case in Frederick County, and are offering **\$10 per survey to compensate you for your time.**

This study compares different ways of handling criminal cases in the District Court, and its effect on you, your family, and your relationships. Part of the study will compare cases going through mediation to similar cases being traditionally processed. We'd like to know more about how you experience the court system, and how it's working for you as a citizen.

If you would like to be a part of this study, it would mean the following things for you:

- A researcher from Salisbury University would call you for a 10 minute survey, for which you would be mailed a check for \$10 for your time. There would be a second 10 minute survey a few months after your case is over for which you would also be paid \$10, for a total of \$20 over the next few months.
- **Participation is completely voluntary.** If you agree to participate, you can change your mind at any time. If you decline, there are no negative repercussions to you or your case. The State's Attorney's Office has no record of who completed the surveys.
- All information is completely confidential. Only the research team will have access to the data – it will not be shared with the court, your attorney, the other party, or the State's Attorney's Office. Once all the data has been collected, your personal information will be destroyed. In total, data from over 2,000 people will be in the database, so it will not be possible to identify individuals.

If you have any questions about this project, you can go to [www.marylandADRresearch.org](http://www.marylandADRresearch.org) or contact Brittany Kesteven at 240-310-9857 or [bkesteven@marylandADRresearch.org](mailto:bkesteven@marylandADRresearch.org).

We'll attempt to contact you by phone. If you have not received a call from us, **please call us at 240-310-9857**, as the contact information we have for you may not be up to date. It is our hope that this research provides an opportunity for your opinions to be heard, and can improve the way the court provides access to justice for all Maryland citizens.

Thank you,



Brittany Kesteven  
Project Manager, Bosserman Center for Conflict Resolution  
Salisbury University  
[bkesteven@marylandADRresearch.org](mailto:bkesteven@marylandADRresearch.org) | [Brittany.Kesteven@mdcourts.gov](mailto:Brittany.Kesteven@mdcourts.gov)

## APPENDIX D: Pre-test Survey

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### PARTICIPANT SURVEY (PRE-SESSION – ALL CASES) District Court Criminal

**RESEARCH CASE NUMBER** \_\_\_\_\_  
Name of person being interviewed \_\_\_\_\_  
Plaintiff v. Defendant \_\_\_\_\_

#### **Interviewer:**

#### **Read the following Confidentiality Statement to the respondent before proceeding**

Your participation in this survey is completely voluntary. You may choose to not answer any question or stop the survey at any time. Your answers are confidential. They will not be shared with the other involved parties, the court, or your lawyer.

If you choose to participate, we'll ask you a 10-minute survey now, another 10-minute survey after your court case is over, and another 10-minute survey three months after that. We'll also gather information from your court records and other law enforcement records. You'll be paid \$10 for each of the three surveys. Your choice to participate or not will not affect your case, and the State's Attorney's Office will have no record of who participates and who does not.

I am willing to continue with these surveys.

#### **A. Participant and Case Information**

1. Are you the:

- Complainant/Victim (person who filed)
- Defendant (person who was charged)
- Both (you filed charges and were charged yourself)
- Support person for Complainant
- Support person for Defendant
- Other \_\_\_\_\_

2. Have you heard anything from the State's Attorney's Office about how they plan to handle your case?

\_\_\_\_\_  
(Note to researcher: Ask it broadly like this, but we want to know if they've already heard that their case will be NP)

3. Are you being represented by a lawyer?

- Yes
- No

3a. If no, did you consult with an lawyer before coming today?

Yes       No

4. Have you ever been involved in another court case? (check all that apply)

Plaintiff       Defendant       Witness       None

4a. If yes (plaintiff or defendant), how many times in the past five years? \_\_\_\_\_

5. Prior to this case, have you ever been involved in any of the following processes?

Mediation       Arbitration  
 Settlement conference       Not sure  
 Community Conferencing       No, I have not

### B. Participant's Opinion

6. Using the following scale, express your agreement or disagreement with the following statement:

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
I have a clear idea of what I want to get from this case and possible trial.					

7. What results are you hoping to get from this case? \_\_\_\_\_  
\_\_\_\_\_

8. Have you done anything to prepare for trial in this case?

yes       no       not sure

9. Prior to today, have you had a conversation with the other person/people involved in this case to try to resolve these issues?

yes       no

10. Were you aware that there were opportunities for mediation or Alternative Dispute Resolution before filing a court case?

yes       no

11. Would you have liked an opportunity to try mediation or Alternative Dispute Resolution prior to trial in this case?

yes       no       I don't know what ADR is

12. For this case, have you already been involved in any of the following processes:

- Mediation
- Settlement conference
- Community Conferencing
- No, I have not
- Arbitration
- Trial
- Not sure

13. Do you think you are:

- Not at all responsible for what happened
- Somewhat responsible for what happened
- Fully responsible for what happened

14. How long have you known the other person involved in these charges? \_\_\_\_\_

15. How long have the issues that led to the charges been going on? \_\_\_\_\_

16. Have the police been called in regard to these issues?

- yes
- no

16a. If yes, how many times have the police been called? \_\_\_\_\_

16b. Over what time period (in months) were those calls made? \_\_\_\_\_

17. Were you physically assaulted because of the issues that led to the charges?

- yes
- no

18. Other than these charges, have other cases been filed related to these issues?

- yes
- no

18a. If yes, which types of cases?

- Criminal
- Civil
- Appeals
- Family
- Juvenile
- not sure

**(Ask of plaintiff only)**

19. Do you know if the defendant in this case is aware that charges have been filed?

- Yes, they are aware
- No, they are not aware
- I'm not sure if they're aware
- Other \_\_\_\_\_

20. Using the following scale, express your agreement or disagreement with the following statements:

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
--	----------------	-------	----------------------------	----------	-------------------

I think there are a number of different ways to resolve the issues that led to these charges.					
It's important that I get my needs met in the issues that led to these charges.					
It's important that I understand what the other person/people want in the issues that led to these charges.					
The other person/people need to learn that they are wrong in the issues that led to these charges.					
It's important that the other person/people get their needs met in the issues that led to these charges.					
	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
It's important for me to have a positive relationship with the other person/people involved in the issues that led to these charges.					
I feel like I have no control over what happens in the issues that led to these charges.					
The other person/people involved in the issues that led to these charges want the exact opposite of what I want.					
I can talk about my concerns to the person/people involved in the issues led to these charges.					
It doesn't seem to make any difference what I do in regard to the issues that led to these charges, it'll just remain the same.					
In general, conflict is a negative thing.					
I feel prepared to go to trial.					
The court system cares about helping people resolve disputes in a fair manner.					

**C. Demographic information**

21. Are you male or female?     Male                             Female

22. How old were you on your last birthday? \_\_\_\_\_

23. How many people live in your household, including you? \_\_\_\_\_



<p>24. What is your household income? Please check the appropriate box.</p> <p><input type="checkbox"/> Less than \$10,000</p> <p><input type="checkbox"/> \$10,000 to \$15,000</p> <p><input type="checkbox"/> \$15,000 to \$25,000</p> <p><input type="checkbox"/> \$25,000 to \$35,000</p> <p><input type="checkbox"/> \$35,000 to \$50,000</p> <p><input type="checkbox"/> \$50,000 to \$75,000</p> <p><input type="checkbox"/> \$75,000 to \$100,000</p> <p><input type="checkbox"/> \$100,000 to \$150,000</p> <p><input type="checkbox"/> \$150,000 to \$200,000</p> <p><input type="checkbox"/> \$200,000 or more</p>	<p>25. What is your race? Please check the appropriate box</p> <p><input type="checkbox"/> White</p> <p><input type="checkbox"/> Black or African American</p> <p><input type="checkbox"/> Hispanic or Latino</p> <p><input type="checkbox"/> American Indian and Alaska Native</p> <p><input type="checkbox"/> Asian</p> <p><input type="checkbox"/> Native Hawaiian and Pacific Islander</p> <p><input type="checkbox"/> Other, please specify: _____</p> <p>25a. Were you born in the United State <input type="checkbox"/> Yes          <input type="checkbox"/> No</p> <p>25b. If no, how long have you lived in the US? _____</p>
---	---

26. What language(s) are spoken in your household?

- English only
- English and another language
- Only a language other than English

26a. If a language other than, or in addition to English, specify language/s: \_\_\_\_\_

26b. How well do you think you speak English?

- Very well                                   Not well
- Well     Not at all

27. Do you have a military background?

- Yes, I am active duty, reserve, or national guard
- Yes, I'm a veteran                           No

28. Do you have any disabilities?

- Yes     No

28a. If yes, please specify: \_\_\_\_\_

29. What is your relationship to the other party in this court case? (Please Circle One)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Friend/Acquaintance       | <input type="checkbox"/> Boy/Girlfriend      | <input type="checkbox"/> Ex-boy/girlfriend |
| <input type="checkbox"/> Domestic Partners/Spouses | <input type="checkbox"/> Separated/Divorcing | <input type="checkbox"/> Other Family      |
| <input type="checkbox"/> Employer/Employee         | <input type="checkbox"/> Former Emp/Employee | <input type="checkbox"/> Co-workers        |
| <input type="checkbox"/> Neighbors                 | <input type="checkbox"/> Room/Housemates     | <input type="checkbox"/> Strangers         |
| <input type="checkbox"/> Landlord/Tenant           | <input type="checkbox"/> Customer/Business   | <input type="checkbox"/> Other: _____      |

27. What is your highest completed level of education?

- No Formal Education       Grammar School       High School/GED  
 Trade School/Certificate Program (post high school)  
 College       Graduate degree (MA, PhD)       Law School (JD, LLM)

**D. Contact Information**

28. Can I get your mailing address? We'll send you a check for \$10 for your time today.

\_\_\_\_\_

29. For the next two surveys, we'll call you. What the best number to reach you at (or confirm the number you called is best)? \_\_\_\_\_

30. Secondary number if they offer it \_\_\_\_\_

31. What are the best times to try to reach you? \_\_\_\_\_

32. May we leave messages at this number?       yes       no

33. Your email address? \_\_\_\_\_

**Were there any questions you didn't understand or found confusing?**

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

**General Comments/Observations of the Researcher:**

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

## APPENDIX E: Follow-up Survey

**PARTICIPANT SURVEY (Three months post - ALL)  
District Court Criminal Cases**

<b>FOR OFFICE USE ONLY</b>	<b>RESEARCH CASE NUMBER</b>
_____	
Name of person being interviewed _____	
DC Case# _____ Last Name v. Last Name _____	

**Interviewer: Read the following Confidentiality Statement to the respondent before proceeding**  
Your participation in this survey is completely voluntary. You may choose to not answer any question, or stop the survey at any time. Your answers are confidential: they will not be shared with the other involved parties, the court, or your attorney.

1. Using the following scale, please rate your agreement or disagreement with the following statements.

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
I think there are a number of different ways to resolve the issues that brought me to court three months ago.					
It's important to me that I get my needs met in the issues that brought me to court three months ago.					
It's important that I understand what the other person/people want in the issues that brought me to court three months ago.					
The other person/people need to learn that they are wrong in the issues that brought me to court three months ago.					
It's important that the other person/people get their needs met in the issues that brought me to court three months ago.					
It's important for me to have a positive relationship with the other person/people					

involved in the issues that brought me to court three months ago.					
I feel like I have no control over what happens in the issues that brought me to court three months ago.					
The other person/people involved in the issues that brought me to court three months ago want the exact opposite of what I want.					
I can talk about my concerns to the person/people involved in the issues which brought us to court three months ago.					
It doesn't seem to make any difference what I do in regard to the issues that brought me to court three months ago, it'll just remain the same.					
In general, conflict is a negative thing.					
I feel like the issues that brought us to court three months ago are fully resolved.					
I am satisfied with my interaction with the judicial system in this case.					
The court system cares about helping people resolve disputes in a fair manner.					
My needs have been met in this situation.					
As a result of the court proceedings, I am confident this incident will not occur again.					

**B. Compliance**

2. Three months after your court proceedings, how satisfied are you with the outcome?

Very dissatisfied  Dissatisfied  Neither  Satisfied  Very satisfied

3. How well is the outcome you reached in court working for you?

Not at all  A little  Partially  Mostly  Completely

4. How well did you follow through on what you were supposed to do, based on the mediation agreement or the court's direction to you? (If answered anything other than completely, go on to questions 4a and 4b)

Not at all  A little  Partially  Mostly  Completely

N/A - we received no direction from the court regarding this case

4a. What parts of the agreement or direction did you follow through on? Why?

4b. What parts of the agreement or direction did you not follow through on? Why?

5. How well did the other person follow through on what they were supposed to do, based on the mediation agreement or the court's direction? (If answered anything other than completely, go on to questions 5a and 5b)

Not at all       A little       Partially       Mostly       Completely

N/A - we received no direction from the court regarding this case

5a. What parts of the agreement or direction did they follow through on?

5b. What parts of the agreement or direction did they not follow through on?

6. In the last three months, have you had any contact with the other parties involved in the case, since the case ended?

None       A little       A lot

6a. Are the interactions worse, the same, or better than three months ago?

Worse       Same       Better       n/a

7. Have new problems with the other person in this case (which you did not raise in the initial charges) arisen in the last three months?

Yes       No

7a. If yes, what are they?

7b. If yes, how have you dealt with them?

8. In the last three months since the court proceedings, have you had any personal inconveniences (e.g. missed work, change in your routine, lack of sleep, health issues, situation weighing on your mind etc.) as a result of this situation?

Yes       No

8a. If yes, what were they?

9. In the last three months, have you had any personal financial costs as a result of the issues that brought you to court three months ago, other than any amount decided at trial?

Yes     No

9a. If yes, what were they and how much did you spend?

10. If you care for dependents (children or other dependents), did you require any added help with care in order to participate in legal activities for this situation?     Yes             No

10a about how many total hours of additional care did you require to attend legal activities for this case? \_\_\_\_\_

10b. In total, how much did it cost you to have added care to attend these activities (do not include care costs that you would normally incur with or without attending these activities):  
\_\_\_\_\_

11. If you were represented by an attorney, what was the total paid in attorney's fees for this case?

12. Has there been any violence as a result of the situation, since the court proceedings ended?

Yes     No

10a. If yes, please describe it.

13. Has your approach to conflicts involving other people changed since the court proceedings?

Yes     No

13a. If yes, how?

14. What else has happened in the situation that brought you to court that I have not asked you about?

## Appendix F: List of Research Team and Advisory Committee Members

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The **Research Team** collecting and analyzing data used in this report is comprised of professional, full-time researchers with graduate-level education in the field. They are as follows:

Lorig Charkoudian, PhD  
Principle Investigator

Haleigh LaChance, MA, MFA  
Research Coordinator  
Coded: Participants  
Years on project: 4

Michal Bilick, MS  
Research Associate  
Coded: Mediators  
Years on project: 2.5

Suzanne Rose, MA  
Research Assistant  
Coded: Participants  
Years on project: 2

Gretchen Kainz, MA  
Research Assistant  
Coded: Participants  
Years on project: 1.5

Emmett Ward, MA  
Research Assistant  
Coded: Mediators  
Years on project: 1.5

Lindsay Barranco, JD  
Research Assistant  
Coded: Mediators  
Years on project: 1

Kate Bogan, MA  
Research Assistant  
Coded: Participants  
Years on project: 1

Brittany Kesteven  
Data Assistant  
Years on project: 3

Matthew Swiderski  
Graduate Assistant  
Years on project: 1

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The **Advisory Committee** for this project has played a central role in the development of this research design, implementation in the courts, survey design, guidance on data collection, and analysis and interpretation of the data.

Members of the Advisory Committee, along with their affiliated agency, are listed below in alphabetical order. This list includes members of the broader research team, who are active participants on the Advisory Committee.

- Barbara Domer, Conference of Circuit Court Administrators
- Brian Polkinghorn, Bosserman Center for Conflict Resolution, Salisbury University
- Clifton Griffin, Graduate Studies and Research, Salisbury University
- Connie Kratovil-Lavelle, Esq., Family Administration

- Deborah Eisenberg, Esq., Center for Dispute Resolution, Francis Carey School of Law, University of Maryland
- Diane Pawlowicz, Administrative Office of the Courts, Court Operations, Research Sponsor
- Douglas Young, Institute for Governmental Science and Research, University of Maryland
- Haleigh LaChance, Salisbury University
- Heather Fogg, Mediation and Conflict Resolution Office (MACRO)
- Jamie Walter, PhD, District Court Clerk's Office
- Jeanne Bilanin, PhD, Institute for Governmental Science and Research, University of Maryland
- Jonathan Rosenthal, Esq., District Court ADR Office
- Joy Keller, Administrative Office of the Courts
- Julie Linkins, Esq., Administrative Office of the Courts
- Lou Gieszl, Administrative Office of the Courts
- Nick White, PhD, Mediation and Conflict Resolution Office (MACRO)
- Pamela Ortiz, Esq., Access to Justice Commission
- Rachel Wohl, Esq., Mediation and Conflict Resolution Office (MACRO)
- Robb Holt, Esq., Administrative Office of the Courts, Court Operations
- Roberta Warnken, Chief Clerk, District Court
- Roger Wolf, Esq., Francis Carey School of Law, University of Maryland
- Toby Guerin, Esq., Center for Dispute Resolution, Francis Carey School of Law, University of Maryland
- Wendy Riley, Conference of Circuit Court Administrators

During the final phase of this research, a new Judicial Committee Structure was adopted by the Maryland Judiciary. An ADR committee comprising judges from all levels of court, and staffed by the Mediation and Conflict Resolution Office has been instrumental in reviewing the report, and will take the lead in determining best ways to disseminate the results. They will provide leadership in making changes to policies and programs based on the various ADR reports conducted with the support of this grant from the State Justice Institute.