

Child Welfare Court Practice Evidence Series

Topic: Child Protection Mediation

Introducing the Capacity Building Center for Court's (CBCC) **Child Welfare Court Practice Evidence Series**.¹ This series is designed to pull together the most currently available research in the field around a given topic and summarize what we know about the program or practice's effectiveness in improving outcomes in child welfare. The research is summarized in terms of the type of program or practice, the outcome that was measured, and robustness of the research. All research is categorized on the following scale:

Strength of Evidence -Strong Evidence for the intervention's effectiveness on case process and outcomes is high if the study has used rigorous research designs, such as an experimental design (e.g., random assignment to groups), or an advanced quasi-experimental design with modeling designed to improve causal inferences.

Strength of Evidence -Moderate: Evidence for the intervention's effectiveness on case process and outcomes is moderate if the study uses an advanced research design such as quasi-experimental designs where there are comparisons between and intervention group and a comparison group who did not get the intervention. Moderate studies will always have some sort of comparison group. More rigorous ones may include ways to account for (or control) differences between the groups to be more confident that the intervention is related to the outcome.

Strength of Evidence -Weak: Evidence for the intervention's effectiveness on case process and outcomes is weak if the study did not have the quasi-experimental designs but still included some statistical comparison that indicated that the intervention was related to the outcome. This could also include quasi-experimental studies that had design concerns (such as a low sample size). It is important to note that weak evidence is still evidence of effectiveness.

The evidence series is divided into four parts: **(1)** an introduction to the program/practice of interest, the methods for the review of literature in the field, and the overall findings of literature search, **(2)** classification of findings according to research evidence (in tables for easy reference), **(3)** categorization of how much evidence is available for the intervention as a whole, and **(4)** a list of references with bulleted key findings. Research is current as of the date in the footer.

¹ For more in-depth information about evidence, see the *Child Welfare Court Practice Evidence Series Introduction*.

How can I use this document?

The selection of appropriate interventions should be completed through a data-driven process. This involves asking, when considering implementing any intervention, what evidence supports that intervention's effectiveness?

This document is designed to **help summarize what we know about what works** in the field so that Court Improvement Programs can be **more informed consumers of evidence** and **select the best possible intervention**.

Child Protection Mediation

Child protection mediation (CPM) involves an impartial and neutral person (the mediator) who facilitates communication among parents, lawyers, child protection professionals, and possibly others, to negotiate and reach consensus about the resolution of issues of concern in child abuse and neglect cases. Courts can use CPM at different stages of a child abuse and neglect case (e.g., at pre-petition/emergency removal, at preliminary/initial hearing, at adjudication/disposition, at permanency review, at the termination of parental rights (TPR) or relinquishment stage, and/or at the post-permanency review stage of the case). Mediation goals vary, depending on the stage of the case, but overall CPM aims to: involve parents in decisions regarding their children; provide a forum for family members and professionals to communicate their views and concerns; encourage settlement and resolution of issues; improve case plans and the case planning process; increase the effectiveness of court hearings; increase compliance with case/treatment plans or court orders; expedite permanency for children; shorten the amount of time a child stays in foster care; and reduce state costs connected with child abuse and neglect cases.

In this document, we review the research evidence about CPM's effectiveness at achieving its goals. We searched academic literature databases as well as conducted a web-search for research-based articles, evaluation technical papers and CPM evaluation reports. Relevant studies were downloaded into a database and reviewed for rigor of methodology and research design as well as study findings. We then grouped the studies in the database according to the evidence criteria listed above to help classify the strength of evidence for CPM's effect on the child abuse and neglect case process and outcomes.

Statistical Significance:

Statistical significance is a way for researchers to quantify their confidence that the relationship found between two variables is not caused by chance alone. Statistical tests use an alpha (called a p value) to determine statistical significance. The standard in academic research is $p < .05$ (or only a 5% chance that the relationship occurred by chance alone).

Research Review Findings: Evidence for the Effect of Child Protection Mediation on Case Process and Outcomes

Our review of the available research literature² on CPM revealed many studies that did not meet the criteria set above for establishing evidence for effectiveness. Most of the evaluations of CPM, for example, are descriptive or process-oriented (e.g., involving survey methods or focusing primarily on assessing stakeholder satisfaction and judgments about procedural fairness, etc.), are based on new or emerging pilot programs or are limited by small sample sizes or the lack of any comparison to non-mediation groups. While such studies are informative and valuable from a program monitoring and implementation perspective, these studies do not meet the threshold to be considered evidence that CPM achieves stated outcomes.

² It is possible that rigorous studies meeting the threshold criteria for evidence exist but are not publicly available. Because we thought this might be the case, we outreached to state CIPs to inquire if they had any CPM evaluation reports that they could share for the purpose of this review. This request did not produce any new studies meeting the threshold criteria for evidence of CPM's impact on case outcomes.

Our review of available research found many studies that could be classified as providing “emerging” evidence for CPM’s effectiveness (i.e., they were descriptive in nature, primarily using survey, interview or focus group methods). These studies are not included here. Instead, we highlight the studies that used more rigorous research designs and methods to evaluate CPM. Our review uncovered 17 studies, that because of their methodological rigor, provide “well-supported,” “supported,” or “promising” evidence for CPM’s effect on case processing and specific case outcomes. Findings of this evidence review are organized in the table provided on page 4. ND means that they compared program/non-program cases and found ***no difference***.

Based on a review of available research, there is evidence that CPM:

- Reduces litigation and increases settlement (8 studies)
- Reduces case processing timelines (7 studies)
- Provides an opportunity for voice (6 studies)
- Improves time to permanency (5 studies)
- Increases parent compliance with case/treatment plans (4 studies)
- Results in cost savings to the court/system (4 studies)
- Increases reunification (3 studies)

The evidence for the effectiveness of CPM on the case process and outcomes is encouraging. Nevertheless, gaps in our knowledge of CPM’s effect on child abuse and neglect cases remain. While our review found studies meeting the threshold criteria for evidence of CPM’s effect on outcomes, more well-designed research using randomized control trials or strong quasi-experimental methods with control or matched comparison groups is needed to build upon this evidence base. Only a few studies meeting our evidence threshold criteria, for example, were able to link CPM with increased/improved reunification rates. While many studies using rigorous methods found that CPM does provide participants with an opportunity for voice in the case process, more studies are needed to compare CPM to other approaches to engage families, reduce conflict and make decisions in child abuse and neglect cases.

Using CPM Research Evidence in a CQI process

Court improvement teams should support the design and implementation of interventions or programs through a *data-driven* continuous quality improvement (CQI) process. This involves asking, when considering implementing any intervention, what evidence supports that intervention’s effectiveness? The results of our review of the evidence base for CPM’s effectiveness can be used in court improvement team’s CQI efforts to inform the design and implementation of CPM programs. Evidence suggests, for example, that CPM does not have to be restricted to one stage of the court process. Positive impacts on case outcomes were found for CPM at pre-adjudication, at TPR and at other stages of the child abuse and neglect case process. This information can be valuable when developing a new CPM program or when considering expansion of an existing CPM program to offer it at more stages of the case. In addition, it is our hope that the information presented in this review will encourage future evaluations of CPM to include rigorous research designs in order to add to the evidence base for CPM effectiveness.

Studies	Stage of Case Process Mediation Occurred	CHILD PROTECTION MEDIATION OUTCOMES						
		ND=Study found no statistically significant differences for this outcome						
		Reduce Litigation/Increase Settlement	Opportunity for Engagement/Voice	Compliance with Case/Tx Plan	Reduced Case Processing Timelines	Improve Time to Permanency	Increased Reunification	Cost Savings
Level of Evidence: Well-Supported								
Ashford & Faith (2004)	Pre-Adjudication	✓						
Gatowski et al., (2005)	Pre-Adjudication		✓	✓	✓	✓		
Thoennes (2001)	TPR	✓			✓			
Thoennes (2002)	TPR	✓						
Level of Evidence: Supported								
Shack & Sitko (2018)	Pre-Adjudication	✓	✓	ND				
Siegel et. al (2017)	Pre-Adjudication	✓	✓		✓	✓	✓	
Summers et al (2011)	Pre-Adjudication	✓			✓			
Summers et. al (2013)	Pre-Adjudication		✓	ND	ND	ND	✓	
Gatowski & Summers (2019)	TPR	✓			✓	ND		✓
Thoennes (2002)	TPR							✓
Baca-Sena & Lichtenstein (2010)	Any		✓	ND			✓	

Studies	Stage of Case Process Mediation Occurred	CHILD PROTECTION MEDIATION OUTCOMES						
		Reduce Litigation/Increase Settlement	Opportunity for Engagement/Voice	Compliance with Case/TX Plan	Reduced Case Processing Timelines	Improve Time to Permanency	Increased Reunification	Cost Savings
Level of Evidence: Supported (Cont'd)								
Kierkus & Johnson (2019)	Any				✓	✓		
Thoennes (1997)	Any	✓	✓	✓				
Thoennes (1999)	Any			✓	✓			
Thoennes (2000)	Any							✓
Thoennes & Kaunelis (2011)	Any			✓	ND	✓		✓
Level of Evidence: Promising								
Anderson & Whalen (2004)	Any					✓		

Can we say that mediation is an evidence-based practice?

It depends. There have been some robust studies of mediation and many well-supported studies. You could be pretty comfortable saying mediation is an evidence-based practice if you are looking for interventions that decrease litigation and increase settlement. There are well-supported and supported studies that consistently demonstrate this with mediation. If you are looking for an evidence-based practice that shows other outcomes, such as time to permanency, reunification, or cost savings to the court, then the answer is no. There is definitely support for mediation as an effective intervention, but there is not enough high-quality research that has examined mediation in robust way related to the outcomes of interest. Mediation would be classified as supported for some outcomes and well-supported for others.

Evidence-based: An intervention is “evidence based” if it includes more than one strongly designed study that can establish a causal relationship between the intervention and an outcome of interest. The results must be replicated in an additional site or with additional groups

Well-Supported: Evidence for an interventions effectiveness on case process and outcomes is “well-supported” if results have been established by multiple studies that have been well-designed and well-executed using strong research methods (i.e., cases are randomly assigned to either a mediation group or a no-mediation group) and with statistically significant findings.

Supported: Evidence for an intervention’s effectiveness on case process and outcomes is “supported” if results have been established by at least one well-designed and well-executed study with statistically significant findings using strong research methods (e.g., strong quasi-experimental designs using control and comparison groups (mediation and no-mediation) and matches those groups according to their case characteristics so similar cases are compared), or by more than one study using moderately strong research methods (e.g., studies using some form of control or comparison group).

Promising: Evidence for an intervention’s effectiveness on case process and outcomes is “promising” if results have been established by at least one well-designed and well-executed study with statistically significant findings using some form of comparison group or correlational studies have been conducted that establish a statistically significant relationship between intervention and case process or outcomes.

Emerging studies are those with very little or only anecdotal evidence of effectiveness.



References

Anderson, G.R. & Whalen, P. (2004). *Permanency Planning Mediation Pilot Program: Evaluation Final Report*. Michigan State University School of Social Work and Michigan State Court Administrative Office.

- No formal control group; mediated cases compared to cases that were referred to mediation but did not receive a mediation); Mediation at any stage of the case.
 - Time from petition filing to permanency was significantly shorter for mediated cases compared to cases that were referred to mediation but did not mediate.
 - Significantly more mediated cases had achieved permanency within two years compared to cases that were referred to mediation but did not receive a mediation.

Ashford, J. & Faith, R.L. (2004). "Testing models of justice and trust: A study of mediation in child dependency disputes," *Social Work Research*, Vol. 28(1), pp. 18-29.

- Random assignment of cases to either a mediation or non-mediation group; Mediation at pre-adjudication stage of the case
 - Increased perceptions of agreement/settlement pre-adjudication from stakeholders who participated in mediation vs. stakeholders who went through usual court process (no-mediation). No differences found for dissatisfaction with the juvenile court system or parental judgments of the fairness of the third parties (social workers, mediators or judges).

Baca-Sena, L. & Lichtenstein, M. (2010). *Children's Court Mediation Program Evaluation Report 2008-2010*. New Mexico Administrative Office of the Courts.

- Quasi-experimental design (mediated cases were matched to similar non-mediated cases for comparison); Mediation at any stage of the case.
 - Cases with a mediation were significantly more likely to result in the children's reunification with parent compared to non-mediated cases. No differences found for parental compliance.

Gatowski, S.I., Dobbin, S.A., Litchfield, M. & Oetjen, J. (2005). *Mediation in Child Protection Cases: An Evaluation of the Washington, D.C. Family Court Child Protection Mediation Program*. Technical Assistance Brief, National Council of Juvenile and Family Court Judges, Reno, NV.

- Random assignment of cases to either a mediation or non-mediation group; Mediation at pre-adjudication stage of case.
 - Mediated cases reached adjudication, disposition and permanency (case closure) in significantly fewer days than non-mediated cases.
 - Cases that were mediated were significantly less likely than the non-mediated group to have returned to court within 12 months after case closure.
 - Mediated cases had significantly more use of relative placements when compared to non-mediated cases.

Gatowski, S.I. & Summers, A. (2019). *Nevada Statewide Juvenile Dependency Mediation Outcome Evaluation*. Systems Change Solutions, Inc. and Data Savvy Consulting.

- Quasi-experimental design (random selection of cases with a mediation compared to a random selection of cases without a mediation); Mediation at TPR stage of case
 - Mediated cases were significantly more likely to end with a voluntary relinquishment
 - Mediated cases had significantly more post-adoption contact
 - Mediated cases took significantly less time from TPR order to achieve adoption
 - Estimated cost savings to the court in mediation cases compared to non-mediation cases
 - No difference found for time to permanency

Kierkus, C.A. & Johnson, B.R. (2019). *Child Protection Mediation in Michigan*. Grand Valley State University, College of Community and Public Service and School of Criminal Justice.

- Quasi-experimental design (cases from counties with mediation compared to cases from counties without mediation but with similar number of case filings); Mediation at any stage depending on the county studied
 - Mediated cases achieved permanency in significantly fewer days on average than non-mediated cases
 - Mediated cases were significantly more likely to have closed (i.e., achieved permanency) within two years compared to non-mediated cases
 - Parents from counties using mediation reported higher “satisfied/very satisfied” scores with the court process on exit surveys compared to parents from counties that did not use mediation

Macgill, S., Summers, A., Wood, S., & Bohannon, T., (2013). *Research Report: Assessing Mediation in Washoe County, Nevada*. Reno, NV: National Council of Juvenile and Family Court Judges.

- Quasi-experimental design (mediation cases compared to matched sample of non-mediation cases); Mediation at TPR stage of case
 - Significantly fewer number of contested hearings/trials in cases with a mediation compared to cases without a mediation

Shack, J. & Sitko, R. (2018). *Improving an Effective Program: A Comprehensive Evaluation of the Superior Court of the District of Columbia Child Protection Mediation Program*. Resolution Systems Institute (RSI), Chicago, IL.

- Quasi-experimental design (mediation cases compared to matched sample of non-mediation cases); Mediation at pre-adjudication stage of case
 - Mediated cases had significantly more stipulations/agreements compared to non-mediated cases. No differences were found with parent compliance with services or in time to achieve permanency between mediated and non-mediated cases.
 - Parents reported gaining a better understanding of the views of others and what they needed to do through mediation; Parents and professionals reported having

more opportunity in mediation to share their point of view and talk about what was important to them.

Siegel, G., Ganasarajah, S., Gatowski, S.I., Sickmund, M., & Devault, A. (2017). *Research Report: Outcome Evaluation of the Second Judicial District Court's Dependency Mediation Program (Washoe County, NV)*. National Council of Juvenile and Family Court Judges.

- Quasi-experimental design (mediation cases compared to randomly selected non-mediated cases); Mediation at pre-adjudication stage of case
 - Mediated cases were significantly more likely to result in reunification with both parents compared to cases without a mediation and took less time to do so
 - Mediated cases took significantly less time to achieve disposition compared to non-mediated cases
 - Cases with a mediation had significantly fewer contested trials compared to non-mediated cases

Summers, A., Wood, S. & Russell, J. (2011). "Assessing efficiency and workload implications of King County mediation pilot," *Journal of Juvenile Justice*, Vol. 1(1), pp. 48-59.

- Quasi-experimental design (mediated cases compared to randomly selected non-mediated cases), Mediation at pre-adjudication stage of case
 - Mediated cases had significantly fewer continuances/delays than non-mediated cases
 - Mediated cases reached significantly more agreements compared to non-mediated cases
 - Mediated cases took significantly less time (fewer days) to reach adjudication compared to non-mediated cases
 - Estimated cost savings to mediated cases compared with non-mediated cases

Summers, A., Wood, S., Bohannon, T., Gonzalez, G. & Sicafuse, L. (2013). *Research Report: Outcome Evaluation of Mediation in Washoe County, Nevada*. Reno: NV: National Council of Juvenile and Family Court Judges.

- Quasi-experimental design (mediated cases compared to matched sample of non-mediated cases); Mediation at pre-adjudication stage of case
 - Mediated cases significantly more likely to result in reunification than non-mediated cases
 - Mediated cases had significantly more fathers present at court hearings than non-mediated cases
 - No differences found for compliance with services, case processing timelines and time to permanency.

Thoennes, N. (1997). "An evaluation of child protection mediation in five California Counties," *Family and Conciliation Courts Review*, Vol. 35(2), pp. 184-195.

- Quasi-experimental design (mediation and non-mediation groups; some programs used case characteristics to match cases in the mediation group to cases in the non-mediated

group for comparison and other programs matched cases filed prior to implementation of the mediation program to the mediated cases); Mediation at any stage of the case

- Mediated cases had significantly fewer contested review hearings at 6 months compared to non-mediated cases
- Mediated cases had significantly higher parental compliance with case/treatment plans at 6 months post-disposition when compared to non-mediated cases

Thoennes, N. (1999). *Dependency Mediation in Colorado's Fourth Judicial District*. Center for Policy Research.

- Quasi-experimental design (mediation and non-mediation groups; mediated cases matched to comparable cases in a similar jurisdiction without a mediation program); Mediation at any stage of the case
 - Mediated cases took significantly less time (fewer days) from removal to permanency planning hearing compared to non-mediated cases
 - Mediated cases had significantly higher parental compliance with case/treatment plans at 6 months post-disposition when compared to non-mediated cases
 - Estimated cost-savings to the court found for mediation vs. non-mediation (measured as avoided trials, experts, and evaluations in mediation as well as less preparation time for mediation for attorneys and caseworkers compared to the preparation time for trials)

Thoennes, N. (2000). "Dependency mediation: Help for families and courts," *Juvenile and Family Court Journal*, Vol. 51 (2), pp. 13-22.

- Quasi-experimental design (mediation and non-mediation groups, with mediated cases matched to comparable cases in a similar jurisdiction without mediation); Mediation at any stage of the case
 - Estimated cost-savings to the court found for mediation vs. non-mediation (measured as avoided trials, experts, and evaluations in mediation as well as less preparation time for mediation for attorneys and caseworkers compared to the preparation time for trials)

Thoennes, N. (2001). *Permanent Custody Mediation in the Lucas County Court of Common Pleas - Juvenile Division*. Center for Policy Research.

- Random assignment of cases to either a mediation or non-mediation group; TPR stage of the case
 - Significantly higher rate of settlement for mediation cases compared to non-mediation cases
 - Significantly fewer contested trials for mediation cases compared to non-mediation cases
 - Mediated cases took significantly less time from permanent custody filing to resolution/entry of agreement compared to non-mediated cases.

Thoennes, N. (2002). *Hamilton County Juvenile Court Permanent Custody Mediation*. Center for Policy Research.

- Random assignment of cases to either a mediation or non-mediation group; TPR stage of the case
 - Significant reduction in the number of contested trials in mediation group compared to non-mediation group
 - Significantly more settlements in the mediation group compared to non-mediation group
 - Estimated cost-savings to the court found for mediation vs. non-mediation (measured as avoided trials, experts, and evaluations in mediation as well as less preparation time for mediation for attorneys and caseworkers compared to the preparation time for trials)

Thoennes, N. & Kaunelis, R. (2011). *New York City Child Permanency Mediation Program Evaluation*. Center for Policy Research.

- Quasi-experimental design (mediation and non-mediation comparison groups, with mediated cases compared to matched sample of non-mediated cases); Mediation at any stage of the case
 - Mediated cases had significantly fewer hearings and court appearances compared to non-mediation, indicating cost-savings to court
 - Mediated cases achieved permanency in significantly less time (fewer days) than non-mediated cases
 - Parents in mediated cases were significantly more compliant with case/treatment plans compared to non-mediated cases