This research is the only research in the country that compares the attitudes and changes in attitudes of participants who went through ADR to an equivalent comparison group who went through the standard court process. In this study, we measured: 1) attitude toward the other participant; 2) a sense of empowerment and having a voice in the process; 3) a sense of responsibility for the situation; 4) a belief that the conflict has been resolved; 5) satisfaction with the judicial system; and, 6) the likelihood of returning to court for an enforcement action in the subsequent 12 months. This handout summarizes key points; the full report provides technical details and statistical equations. See [full report].

### Short Term Outcomes

The study found several areas where ADR had a statistically significant impact on participants’ experiences and attitudes, compared to participants who went through the standard court process.

Those who went to ADR, regardless of whether they reached an agreement in ADR, are more likely to report that:

1) They could express themselves, their thoughts, and their concerns.
2) All of the underlying issues came out.
3) The issues were resolved.
4) The issues were completely resolved rather than partially resolved.
5) They acknowledged responsibility for the situation.

### Short Term Shifts in Attitude

The study measured shifts in attitude from before to after and compared the shifts in treatment and control groups.

We found that participants who went through ADR are more likely than those who went through the standard court process:

1) To have an increase in their rating of their level of responsibility for the situation from before to after the intervention.
2) To disagree more with the statement “the other people need to learn they are wrong” from before to after the process.

### Satisfaction with the Courts

The study measured how attitudes differed in satisfaction with the courts when an agreement was reached in ADR as opposed to in court.

Participants who developed a negotiated agreement in ADR were more likely to be satisfied with the judicial system than others, while participants who reached negotiated agreements on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements.

This seems to imply that the process of reaching an agreement in ADR is the factor that led to higher satisfaction, rather than just the process of having negotiated a settlement.

### Long Term Shifts in Attitude

The present analysis finds the following in terms of the long-term impact of ADR on the self-reported outcomes we measure.

Participants who went through ADR are more likely than those who went through the court process to report:

1) An improved relationship and attitude toward the other participant measured from before the intervention (the ADR session or trial) to 3-6 months later.
2) The outcome was working.
3) Satisfaction with the outcome.
4) Satisfaction with the judicial system 3-6 months after the intervention.
Demographics

This research also explored whether ADR had a different effect for different demographic groups. With a few exceptions which are detailed in the full report, ADR did not have a different impact on different demographic groups.

Data Collection

In any study that seeks to identify the impact of an intervention on a particular outcome, one needs to be certain that the two groups being compared are equivalent in all ways other than the intervention itself. We surveyed participants in cases agreeing to participate in ADR, and then suspended the ADR program and surveyed participants in similar cases who were never offered ADR. The researchers reviewed case characteristics, demographics, and pre-test attitudinal variables to identify differences between the groups. The groups were determined to be generally comparable. Characteristics that were identified to be different between the two groups were included in the regression analysis to account for any possible difference. (For details on this or any aspect of the research methodology, please see the larger research report.)

The long-term analysis also indicates that cases that reached an agreement in ADR are less likely to return to court for an enforcement action in the 12 months following the intervention compared to cases that did not get an agreement in ADR (including those that reached an agreement on their own, ADR cases that did not get an agreement, and cases that got a verdict).

Reaching an agreement in ADR decreases the predicted probability of returning to court for an enforcement action. Cases that reached agreement in mediation are half as likely (21%) to return to court for enforcement actions compared to cases that reached a verdict (46%).

Our Process

To measure the impact of ADR on potential shifts in participants’ attitudes and perspectives, we took into account that there are a range of factors that could affect these shifts and perspectives. Participants’ roles in court (plaintiff or defendant), whether they are represented by an attorney, their general outlook before they got to court, the history of the relationship between the litigants, the history of the conflict, and the type of case can all have an effect on attitudes and perspectives. Our research methodology, called regression analysis, allows us to isolate the impact of ADR as opposed to other variables that may affect the outcome. By doing this, we can reach conclusions about the impact of ADR itself, confident that we are not inadvertently measuring one of these other factors.

One other unique aspect of this study is that we separate the impact of reaching an agreement from the impact of the ADR process. We look at people who got an agreement through ADR, and those who settled on their own. By doing this, we are able to isolate the impact of the process of ADR, separate from its effect on reaching an agreement.

The long-term costs to court indicates that cases that reached an agreement in ADR are less likely to return to court for an enforcement action in the 12 months following the intervention compared to cases that did not get an agreement in ADR (including those that reached an agreement on their own, ADR cases that did not get an agreement, and cases that got a verdict).

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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/publications/reports.html
Maryland court rules permit judges to order or refer civil cases in the District Court to mediation or a settlement conference. This study identifies the mediator strategies and program factors affecting case outcomes. Statistical analysis of actual mediations revealed four groups of mediator strategies for study. Mediators often use more than one set of strategies: the groupings described are strategies commonly used together. These are not labels for types of mediators.

Reflect

Reflecting Strategies:
- Reflecting emotions & interests

SHORT TERM: Reflecting strategies are positively associated with participants reporting:
  - that the other person took responsibility and apologized
  - an increase in self-efficacy (belief in one’s ability to talk and make a difference)
  - an increase from before ADR to after ADR in their sense that the court cares

LONG TERM: This strategy was not statistically significant in any positive or negative outcomes.

Elicit

Eliciting Strategies:
- Asking participants to suggest solutions
- Summarizing solutions that have been offered
- Asking participants how those solutions might work for them

SHORT TERM: Eliciting participant solutions was positively associated with participants reporting that:
  - they listened & understood each other & jointly controlled the outcome
  - the other person took responsibility and apologized

Eliciting was positively associated with reaching an agreement in ADR.

Eliciting participant solutions was negatively associated with participants reporting ADR practitioner:
  - controlled the outcome
  - pressured them into solutions and prevented issues from coming out

LONG TERM: Participants were more likely to report a change in their approach to conflict and were less likely to return to court for an enforcement action.

Offering / Tell

Offering Strategies:
- Offering opinions
- Advocating for their own solutions
- Offering legal analysis (long term only)

SHORT TERM: This strategy was not statistically significant in any positive or negative outcomes.

LONG TERM: The more offering strategies are used, the less participants report:
  - the outcome was working
  - They were satisfied with the outcome
  - They would recommend ADR
  - They changed their approach to conflict

Caucus

Caucus is the practice of meeting with the participants on each side of the case separately and privately.

SHORT TERM: The greater the percentage of time participants spend in caucus, the more likely participants report:
  - the ADR practitioner: controlled the outcome, pressured them into solutions, and prevented issues from coming out.
  - an increase in a sense of powerlessness, an increase in the belief that conflict is negative, and an increase in the desire to better understand the other participant.

The greater the percentage of time in caucus, the less likely the participants report:
  - they were satisfied with the process and outcome, and the issues were resolved with a fair and implementable outcome.

LONG TERM: The greater the percentage of time participants spend in caucus, the less likely participants report:
  - consideration of the other person,
  - self-efficacy (belief in one’s ability to talk and make a difference), and
  - a sense that the court cares about resolving conflict from before the ADR session to several months later.

_Long-term analysis finds that greater the percentage of time participants spend in caucus, the more likely the case will return to court in the 12 months after mediation for an enforcement action._

See full report.
Data Collection

Data for this study were collected in the District Court Day of Trial programs in Baltimore City, and Montgomery, Calvert, and Wicomico Counties. Data were collected through several methods: surveys of participants before and after the ADR session as well as six months later; surveys of the ADR practitioners; behavior coding of participants and ADR practitioners through observations of the ADR process; and review of court records.

Researchers were present on days when ADR practitioners were scheduled to appear for a court docket. Once the ADR practitioner received a case referral and solicited the parties’ agreement to participate in ADR, researchers requested the parties consent to participate in the research study. In all four counties, pre-intervention questionnaires were given before the ADR process. Next, researchers observed the ADR process and coded the behaviors of the ADR practitioners and the participants. At the conclusion of the process, participants were escorted back to the courtroom to either record their settlement or proceed with their trial. At the conclusion of the court process, post-intervention questionnaires were given.

Three months following the ADR process, researchers called participants to conduct a follow-up interview. Finally, 12 months after the court date, researchers reviewed the electronic court records of each observed case to determine if the parties had required further intervention by the court. When the electronic record was not clear, researchers reviewed the original case file at the Clerk’s office.

Analysis

This two page flier simplifies a rigorous study which used a variety of statistical tools to determine the results. A detailed discussion of the data collection instruments and analysis tools can be found in the full report; see below for more information.

Returning to

More likely to return to court:
Caucus: Cases in which a greater percentage of time was spent in caucus are more likely to return to court.

Less likely to return to court:
Eliciting: Cases in which ADR Practitioners used more eliciting strategies are less likely to return to court.

Mediation experience: Cases in which the ADR practitioner had greater ADR experience in the previous 12 months are less likely to return to court.

Racial Match

Having at least one ADR practitioner at the table match the race of the responding participant was positively associated with participants reporting that they listened and understood each other in the ADR session and jointly controlled the outcome, and an increase in a sense of self-efficacy (belief in one’s ability to talk and make a difference) and an increase in the sense that the court cares from before to after the ADR session.

The Maryland Judiciary has a long-term commitment to building ADR programs in Maryland. The Administrative Office of the Courts commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders.

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/publications/reports.html
Maryland court rules require judges to refer all contested child custody cases to attend mediation, except in situations of abuse. Statistical analysis of actual mediations revealed four groups of mediator strategies for study. **Mediators often use more than one set of strategies: the groupings described are strategies commonly used together. These are not labels for types of mediators.** See [full report](#).

**Reflecting Strategies:**
- Reflecting emotions & interests
- Clarifying topics to work on
- Reflecting what participants say (LT)
- Open-ended questions (LT)

**Directing Strategies:**
- Introducing & enforcing guidelines
- Explaining one participant to another
- Advocating for one participant’s ideas

**Eliciting Strategies:**
- Asking participants to think of solutions
- Summarizing solutions
- Asking how solutions might work for them

**Telling Strategies:**
- Sharing opinions
- Offering solutions
- Assessing legal options
- Introducing topics

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**Reflect**

The greater percentage of reflecting strategies used, the **more likely** it is that participants will:
- Say the other person listened & understood
- Become more able to work together
- Develop more personalized agreements

_The less likely it is they will:
- Dismiss the other’s perspective
- Reach an agreement_

**Long Term Results (LT)**

Six months after mediation, the **greater percentage of reflective strategies used, the more likely** it is that participants will:
- Say the other person listened & understood
- Become more able to work together
- Prioritize their children’s needs and consider the other parent’s perspective

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**Direct**

The greater percentage of directing strategies used, the **less likely** it is that participants will:
- Report the mediator listened to them and respected them

**Long Term Results (LT)**

Twelve months after the mediation, the **greater percentage of directive strategies used, the more likely** it is that participants will:
- Return to court and file an adversarial motion and the more adversarial motions they are likely to file
- Become more able to work together

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**Elicit**

The greater percentage of eliciting strategies used, the **more likely** it is that participants will:
- Reach an agreement
- Say the other person listened & understood
- Become clearer about their desires
- Say the underlying issues came out

**Long Term Results (LT)**

Twelve months after the mediation, the **greater percentage of eliciting strategies used, the more likely** it is that participants will:
- Reach an agreement
- Say the other person listened & understood
- Become clearer about their desires
- Say the underlying issues came out

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**Tell**

This strategy was not statistically significant in any positive or negative outcomes.

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**When Reflecting and Eliciting are combined:**

Participants are more likely to: report a positive shift in their ability to work together, say that the other person listened and understands them better, indicate that the underlying issues came out, and **reach a personalized agreement.**
Data Collection

Data for this study were collected in the Family Court mediation programs in Anne Arundel County, Baltimore County, and Charles County. The mix of programs and mediation approaches allows for enough diversity to measure the impacts of the different components of the process.

Trained researchers observed 135 cases including 270 participants, and tracked the mediator strategies and participant behaviors using a common guide of 35 possible behaviors.

Many survey questions were asked of participants both before and after the mediation, to measure their change in attitude. Researchers also reviewed each court case file to examine the final parenting agreement, consent order or court decree relating to custody.

Impact of Caucusing

The impact of caucusing is interesting in that it leads to positive reports about the mediator but negative outcomes for participants' ability to work together. The greater the percentage of time spent in caucus, the more likely the participants were to report the mediator respected them and did not take sides.

Greater percentage of time in caucus also resulted in the following changes in participants attitudes from before to after the mediation. Participants were

- More hopeless about the situation
- Less likely to believe they could work with the other participant
- Less likely to believe there are a range of options for resolution

What it Means

In family mediation, mediators can engage with parents in ways that support parents making their own decisions, by seeking to understand parents' values and by asking them about their ideas for possible outcomes. Alternatively, mediators can engage ways that assume parents need the mediators' ideas and suggestions.

Our research found that when mediators seek to understand parents and elicit their ideas, parents believe they can work together and make decisions for their family. The mediator strategies of eliciting parents' ideas are also the only strategies that were more likely to reach an agreement and consent order.

Additional Findings

In addition, this research found that participants who reported that they found the location of the mediation to be convenient were more likely to reach an agreement. This finding underlines the importance of holding mediation sessions in convenient locations.

The Maryland Judiciary has a long-term commitment to building ADR programs in Maryland. The Administrative Office of the Courts commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders.

This research, commissioned by the Maryland Judiciary, is part of its Statewide Evaluation of Court 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 the 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.marylandADRresearch.org/publications

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