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Massachusetts Office of Public Collaboration Parent Mediation Program: Fiscal Year 2018 Evaluation Report

Executive Summary:

Under the auspices of the Parent Mediation Program (PMP), the delivery of mediation services to parents quarrelling over parenting issues that arose out of divorce or separation together with the impact of mediation on the parents served confirmed that the federal grant money that was invested in the PMP for FY 2018 in all likelihood added substantial value to the parents and children involved with the program. The timely fulfillment of administrative duties and the productivity of centers in delivering highly regarded mediation services that exceeded expectations enabled a majority of at least two-thirds of surveyed parents to settle their disputes. Likewise, a minimum of two-thirds of mediating parents managed to agree on parenting plans that distributed child care responsibilities between parents. And for nearly two-thirds of parents, court intervention was reduced.

Other mediation benefits from the PMP that were conferred upon a majority of 65% or more parents included gains in improving communication, reducing conflict, and increasing civility between parents. Success in advancing various aspects of their relationship with the child was achieved by a larger proportion of non-custodial parents than custodial parents. Majorities of non-custodial parents made progress in improving their access, visitation, and time with the child while only minorities of custodial parents did so. As for parental involvement in the child's academic and extra-curricular life, the minority of non-custodial parents who increased their involvement was greater than the minority of custodial parents who did the same. Financial support for the child was increased by a modest minority (under 30%) of all surveyed parents.

The gains made in mediation for improved parent-parent and parent-child interactions persisted in the weeks following mediation for a diminished number of parents. Yet, almost two-thirds of parents interviewed at least four weeks after mediation considered that their child benefited from their participation in mediation, and somewhat less than half of these parents thought the same about the other parent's mediation participation. Finally, overwhelming majorities of parents were satisfied with the PMP, willing to participate again and recommend its services to others.

To further strengthen the PMP, it was recommended that centers, with the support of MOPC, renew their efforts to involve more probate courts in the PMP and that the MOPC Research Unit take steps to assure the reliability of the information that undergirds program evaluation.

I Introduction.

Children's need to be cared for by their parents does not end when the relationship between the parents breaks down. Decisions about child-rearing often become highly contentious and fraught for parents once their couple relationship is disrupted.¹ Mediation – a dispute resolution process consisting of a mode of discourse in which disputing individuals, assisted by a trained neutral mediator, discuss issues and explore ways to resolve their differences through a mutually acceptable agreement² – helps disputing parents together reach decisions about contentious parenting matters. Mediation's success in generating divorce or separation agreements is shown by agreement rates of 50% to 80% achieved through mediation across the nation.³ Improved communication, diminished conflict, and enhanced autonomy are promised outcomes of mediation: "Among mediation's numerous advantages is its ability to constructively address conflicts, respect each party's perspective, empower individuals to take personal responsibility for conflicted relations, establish mutually beneficial dialogue, and reduce violence."⁴ Other benefits that research indicates may be imparted by mediation to disputants include a high degree of party satisfaction, and, compared to litigation, improved non-custodial parenting, greater satisfaction with the divorce agreement, increased reliability in child support payments, and less relationship damage.⁵ Mediation of divorce disputes has also been shown to

¹ "During the divorce, the two most contentious issues are usually finances and children – in that order," says Dan Couvrette, publisher of *Divorce Magazine*.⁷ (idfa). (2015). Leading causes of divorce: Survey: Certified divorce financial analyst (CDFFA) professionals reveal the leading causes of divorce. Retrieved July 24, 2015, from <https://www.institutedfa.com/Leading-Causes-Divorce/>.

² Wilkinson, J. *A Study of Virginia and Ten States: Final Report and Recommendations*. Virginia Association for Community Conflict Resolution (VACCR), The Institute for Environmental Negotiation, University of Virginia, 2001.

³ Emery, R.E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43:1, 22-37, citing Kelly, 1996. Retrieved August 15, 2012, from <http://onlinelibrary.wiley.com/doi/10.1111/j.1744-1617.2005.00005.x/full>

⁴ Hedeem, T. & Coy, P. G. (2000). Community mediation and the court system: The ties that bind. *Mediation Quarterly*, 17:4, 351-367.

⁵ Ballard, R. H., Holtzworth-Munroe, A., Applegate, A. G., & D'Onofrio, B. (2011). Factors affecting the outcome of divorce and paternity mediations. *Family Court Review*, 49:1, 16-33; Bautz, B. J. & Hill, R. M. (1989). Divorce mediation in New Hampshire: A voluntary concept. *Conflict Resolution Quarterly*, 7, 33- ; Caprez, J. V. & Armstrong, M. A. (2001). A study of domestic mediation outcomes with indigent parents. *Family Court Review*, 39:4, 415-430; Emery et al., *op. cit.*; Pearson, J. & Thoennes, N. Divorce mediation research results. (1988). In J. Folberg and A. Milne. (Eds.). *Divorce mediation*. New York: Guilford Press; Wilkinson, *op. ct.*; Wissler, R. L. (1995). Mediation and adjudication in the Small Claims Court: The effects of process and case characteristics. *Law & Society Review*, 29:2, 323-358.

be instrumental in increasing the likelihood that the parent who does not live with the child (the non-resident or non-custodial parent) will remain in contact with the child and continue to participate in the child's life.⁶

In order to provide access to mediation services in Massachusetts for separating or separated, divorcing or divorced, and never-married parents for parenting disputes arising from divorce or separation, the Parent Mediation Program (the PMP) was established by the Massachusetts Office of Public Collaboration (the state agency for dispute resolution, also known as MOPC) in 2008 and sponsored thereafter by the Department of Revenue's Child Support Enforcement Division (the DOR) through a federal Access and Visitation Grant. Under PMP auspices, eligible disputing parents are able to avail themselves of up to four hours of free mediation services for disputes over such issues as access, visitation, parent's time with the child, and parenting plans. These services are delivered by mediators from community mediation centers (centers) that accept the conditions for participating in the PMP. The participating centers are local, non-profit, community-based organizations that offer affordable or free dispute resolution services to the public. During Fiscal Year (FY) 2018, five centers were affiliated with the PMP, namely, the Community Dispute Settlement Center (CDSC), Family Services of Central Massachusetts (Family Services), MetroWest Mediation Services (MetroWest), North Shore Community Mediation (North Shore), and The Mediation and Training Collaborative (TMTC).

II. Implementation of the Parent Mediation Program during Fiscal Year 2018.

PMP operations during the 2018 fiscal year were funded by a grant for \$133,265. The grant amount was determined in part by the availability of funds and the Massachusetts birth rate, among other factors. The operation of the PMP during the 2018 fiscal year was examined not only to determine what value, if any, was created by the taxpayer's investment in the program, but also to improve the program on an as-needed basis and to demonstrate accountability to the DOR and the public. To that end, both program implementation and program impact on the population served were scrutinized, and the results of the investigation are presented in this report.

Program implementation was assessed in terms of the timely completion of requirements and compliance with protocols as well as the performance of mediation services throughout the year. The complex assortment of protocols and requirements that circumscribed the functioning of the PMP derived from federal, state, university, and MOPC prerequisites. Federal and state stipulations determined the eligibility requirements for receiving free PMP mediation services as

⁶ Emery et al., *ibid.*

well as the PMP's focus on issues concerning parenting time, that is, the time that the non-custodial parent spends with the child.⁷ University regulations and MOPC's chosen payment structure governed the disbursement of funds to compensate MOPC for administration duties and centers for the performance of mediation services. The accountability standards adopted by MOPC informed data collection and reporting. Each participating center also had its own formalities and responsibilities to discharge with respect to their delivery of mediation services.

The Program Manager (Manager), under the supervision of the MOPC Executive Director and in cooperation with participating centers, fulfilled her administrative responsibility to assure and monitor the accomplishment of all the tasks needed to secure compliance, satisfy requirements, and deliver services – including contracting with centers, managing finances, overseeing the progress of cases, informing the DOR about PMP performance and the status and circumstances of cases, communicating with centers about developments and concerns, etc. – so that the PMP operated properly during FY 2018.

A. Managing PMP finances:

Managing PMP finances for the fiscal year required an early estimation from the Manager of the volume of center activities that would be covered by grant monies, assuming four subsidized hours per mediated case and barring unforeseen circumstances. This estimation took MOPC's payment model into account whereby the amount of reimbursement varied with the type of activity performed by centers. As a result, 110 new case referrals and 90 mediations were deemed compensable and were selected as performance targets for the year.

At the beginning of the fiscal year, the Manager provisionally allotted a portion of the grant money to each center in an amount that was based on the center's quantitative performance history so as to help centers manage their finances for their PMP work. Center invoices for services were provided to the Manager each quarter. Billable services included intakes, screenings, mediations, and survey completion. Time spent mediating commanded the largest amount of compensation and was the most challenging for centers to calculate since the PMP only paid for the amount of mediation time that both dealt with eligible issues and stayed within the limits for free mediation hours. One center remarked on this challenge for its "mediators [who] have expressed feeling pressure to watch the clock and be time keeper needing to pause and reflect if a party had discussed a qualifying topic under PMP or not versus being in the moment with the parties." Centers also dealt with parents' reactions to the imposition of fees for

⁷ See Mass.gov. (2018). Child custody and parenting time. Available at <https://www.mass.gov/child-custody-and-parenting-time>

mediation time. In a discussion initiated by the Manager earlier in the fiscal year, centers explained that they forestalled negative reactions from parents about the imposition of fees by providing parents with early notice about time constraints and fees.

The invoices were submitted to the Manager and, once the accuracy of invoices was confirmed, sent to the university for processing and the release of funds. To optimize the likelihood that centers would be compensated for all their services, the Manager tracked center activities and the associated expenditures throughout the year to determine whether the initial allotment of funds should be modified. Changes were made to the amount of funds originally allotted to two centers in FY 2018.

In response to lower than anticipated center demands for reimbursement, the Manager raised the four-hour cap on free mediation time in April, authorizing mediators to offer parties up to two additional hours of mediation if needed, and requiring centers to get approval from the Manager for any such offer. Although this move was prompted by budgetary considerations, it aligned with parents' desire for more free mediation time. Parent feedback about the program included comments from one parent who "needed more free sessions to resolve issues because [he or she was] unable to afford payments" and from another parent who felt that "longer sessions [were] needed to address years of differences, and [an] hour is not very long to cover everything." Additionally, one center found that "when services are free, parties are encouraged to take their time resolving issues. Most PMP cases are more than one session."

B. Delivering mediation services under PMP auspices:

Generating referrals for PMP services: An overarching goal of PMP administration and management is to facilitate centers' delivery of mediation services to the targeted population of parents in separation or divorce situations. Centers engaged in outreach initiatives to raise the awareness of the community, including such parents, about the PMP and the availability of parenting mediation, and thereby increase referrals for their PMP services. The Manager contributed to centers' outreach efforts by providing brochures about the PMP for dissemination. Outreach to courts was conducted by one center, which maintained its on-going relationship with probate courts in western Massachusetts by continuing to communicate with court personnel about the PMP. Apart from this center's engagement with probate courts, centers' outreach efforts focused on non-court audiences. PMP information was dispensed at center trainings for organizations such as the Providers Council, the Framingham State University, Community Resources & Advocacy Program of Community Action, and Lifepath, to name a few. Centers also had a presence at events attended by potential clients – such as S.T.E.P.S. Young Parents Event and Parents Apart classes – as well as community events with MetroFest, People's United Non-Profit Consortium, and the Massachusetts Alliance of Portuguese Speakers, where PMP

information was made available. One center aroused media interest in the PMP with an advertisement in the local newspaper about the center’s divorce and family services and with a press release about all the center’s programs, which led to a front-page article in the newspaper.

Centers’ outreach efforts yielded 161 new case referrals, two-thirds of which were generated by the three probate courts in Franklin, Hampden, and Hampshire Counties while one-third came from the community (see Table 1). As in previous years, referrals for PMP mediation were not forthcoming from probate courts in Essex, Middlesex, Worcester, and Suffolk Counties. Apparently insufficient space and a mismatch between the court’s divorce mediation pilot program and the PMP prevented two of the probate courts from getting involved with the program. Still, the number of new case referrals surpassed referral targets in each quarter of FY 2018, hitting a high point in the first quarter and reaching its lowest point in the last quarter. The downturn in fourth quarter referrals was noted by two centers: “It was a little slower than usual this quarter. We can always use more referrals,” commented one, and “fewer [referrals] this quarter - we could provide services to more parties,” remarked another. In all, the annual total of new referrals exceeded expectations by 46%.

Table 1. PMP case referrals, screenings, and mediations by quarter in FY 2018.

	FY 2018 targets	July-September 2017	October-December 2017	January-March 2018	April-June 2018	FY 2018
New case referrals*	27/28 per quarter (110 for year)	45	41	44	31	161
Eligible community-referred cases	n/a	20	22	13	11	66
Eligible court-referred cases	n/a	25	19	31	20**	95
Screening completed	n/a	42	35	42	30	149
Mediations	22/23 mediations per quarter (90 for year)	38 progressed to mediation	34 progressed to mediation	40 progressed to mediation	27 progressed to mediation	139 progressed to mediation

Processing referrals: The processing of the new case referrals involved the completion of intakes and screenings by center staff. In the course of this processing, centers gathered information from the prospective clients to ascertain their qualification for mediation in general and for PMP mediation in particular. To these ends, staff provided information to parties about

the mediation process and the program to make sure that parents' consent to mediate was both informed and voluntary. In addition, staff checked that mediation was an appropriate way to handle the parties' conflict. The vast majority of surveyed parents who went on to mediate felt both well-informed and prepared for mediation. Center staff provided information about the program and the mediation process that was considered clear by 96% of 166 parents and supplied services that 95% of 165 parents found to be either good or excellent.

As part of referral processing, staff also inquired into the nature of the parties' dispute, the party's relationship to the child, parents' custodial status, children's ages, along with other details, to make sure that what was at issue, as required for PMP mediation, were disagreements between biological or adoptive parents, who differed in custodial status, over parenting-time-related issues with minor children. During referral processing, if custodial status had not been officially assigned to parents, one parent was designated by the center as the custodial parent while the other parent was assigned non-custodial status based upon information supplied by parents about the extent to which each parent shouldered the child care burden. Exceptions to these requirements were available under certain circumstances whereby PMP mediation might be allowed with DOR approval for disputes involving a non-biological party such as a legal guardian, or for disagreements concerning children who had reached their majority, or for issues that were not prima facie parenting-time issues. As one center pointed out, "the forms are always daunting and time consuming." Nevertheless, screening was completed for 93% of the 161 referrals, which led to 86% of these referrals progressing to mediation (see Table 1).

Mediating and collecting information: During FY 2018, 129 first mediation sessions were conducted, 43% more than the 90 anticipated mediations (see Table 1). The usual challenge of mediating disputes was heightened for mediators operating in the PMP context because they were accountable for providing additional information about the mediation session they had conducted, such as the amount of time spent on PMP-eligible issues, changes in parenting time, progress made on issues, and their perspective about what transpired during each session (communicated in a questionnaire). Mediators were also charged with distributing questionnaires to parents after the final mediation session to elicit feedback from the latter about their mediation experience. Finally, all the information collected had to be transferred to the center for eventual transmission to the Manager and the Research Unit. Despite some temporary glitches, mediators mostly met this challenge.

One center observed that "occasionally mediators neglect to give us [the center] the level of detail needed – such as the impact of an agreement on parenting hours, and sometimes mediators take a while to get us [the center] the paperwork," and yet, "we are usually able to ultimately get what we need, but often there is a time lag." A second center tried to ease mediators' administrative burden with some (limited) success: "We have done some additional

coaching with mediators around details on the PMP forms which has improved clarity on their responses. One challenge is that ongoing coaching is necessary. One of our divorce mediators told us this quarter that she does not want to take any PMP cases due to the paperwork needed.” Difficulties with resources and personnel changes so disadvantaged a third center in fulfilling PMP requirements that it decided to withdraw from the PMP so it could regroup and fully succeed in complying with PMP requirements in the future. A fourth center, though, “did not experience any practical challenges during the quarter. Mediators are familiar and comfortable with PMP procedures.” Neither did a fifth center, declaring that it had “no concerns. [Center’s] family mediators are very familiar with the program.”

C. Communication between MOPC and centers about the PMP:

Communication between the Manager and centers about PMP matters occurred through individual calls and emails and through quarterly group conference calls and center surveys. Thus, during FY 2018 conference calls, the manager reminded centers about looming deadlines for documents and clarified rules and requirements while centers learned about PMP developments, such as a provisional increase in the maximum subsidized mediation time and the withdrawal of a center from the PMP. Overtures made to two centers about joining the PMP, however, were only brought up in the Manager’s fourth quarter report. In a conference call that included the Associate Director, head of the MOPC Research Unit, centers were told about the DOR’s interest in acquiring data about mediation’s impact on the relationship between child support and parenting time. Invited to comment on potential parent reactions to such an inquiry, centers expressed concern about asking parents about their child support obligation. Centers were assured that survey questions would be constructed that would avoid mentioning child support and parenting time and would refer instead to the parent’s financial support for the child and the time the parent spent with the child, and that this plan had been communicated to the DOR.

Center feedback about PMP mediation: Centers communicated their feedback about the PMP to MOPC through quarterly surveys. In general, centers were pleased about the opportunity to provide mediation services for parenting disputes under the PMP. No difficulties with MOPC were mentioned by centers. Rather, centers pointed out that parents benefited from the PMP mediations they conducted. One center reported on the positive impact of PMP mediation in a high conflict dispute: “Having the opportunity to discuss parenting and visitation without concern for cost provides parties with less stress to discuss issues that can cause anxiety. We are currently providing mediation for a couple with a high level of conflict. Using the PMP time to discuss their children’s visitation has allowed them to calmly focus on the future.” Another center indicated that “parties tell us they appreciate the advantage of the PMP.” Centers, too, were advantaged by their association with the PMP. According to one center, “PMP helps us

encourage parties to mediate with our center because we are able to offer them up to 4 free hours of free mediation around parenting/visitation discussion, in addition to our regular sliding fee scale.” In the end, as another center pointed out, “this program is a wonderful opportunity for parents and ultimately it benefits the children the most!”

D. Data collection and reporting:

MOPC fulfilled its reporting obligations to the DOR by submitting the Manager’s four quarterly reports about the state of the PMP along with the MOPC Research Unit’s two semi-annual evaluation reports concerning program implementation and impact. The second evaluation report used data from both halves of the fiscal year to assess the program’s effectiveness over the entire year. The assessment of program implementation relied on internal MOPC records and on center responses to quarterly surveys. Program impact was determined by party and mediator responses on post-mediation questionnaires that inquired about the achievements made during the session, among other matters. Parents’ participation in the survey was voluntary, and their identifying information was masked on the questionnaire. Post-mediation questionnaires were completed after the last mediation session by 166 parents representing 88 cases. Mediators provided their perspective on the course of mediation in questionnaires after each of 199 sessions in 144 cases.

The mediation interview interval: The longevity of mediation achievements was explored in guided telephone interviews conducted some weeks after mediation. There was some confusion during the fiscal year about the minimum amount of time that needed to lapse before parents were interviewed. A time-period of six to ten weeks after mediation was designated in FY 2017 as the appropriate interval for conducting telephone interviews, and instructions to that effect were shared by the Research Unit with MOPC administration and incorporated into the FY 2018 agreement between MOPC and the DOR. As FY 2018 marched on, center staff and the Manager began using four weeks as the lower limit of the post-mediation interval for conducting telephone interviews under some circumstances, a development that was overlooked by the Research Unit. The upshot of the interviews at the end of FY 2018, precisely characterized, was that 123 parents in 95 cases participated in telephone interviews during a period of up to at least four weeks after mediation.

Parent attitudes towards survey participation: Parent participation in the PMP surveys was not only voluntary, it was time-consuming and without obvious benefit to the surveyed parents. Alluding to a parent’s disgruntlement with a PMP questionnaire, one center mentioned that “one party expressed his concern that the evaluation form (which he completed after the last session) asked questions that had no relevance to the mediation. He said something to the extent of it was as if ‘we just mowed his lawn and then asked him to describe whether or not he was

satisfied with his roof.’ He told us that his answers of dissatisfaction on the form were not a reflection of the mediation because there was no way the mediation could have addressed those issues.” Nonetheless, parents’ response rate to written and telephone PMP surveys evidently exceeded 50% in FY 2018, which was impressive and to the credit of center staff and mediators.⁸ One center, for instance, explained how it responded to parents annoyed by the surveys: “We hear often ‘Haven’t you asked that already?’ Also, ‘Didn’t I already fill one of those out?’ The latter is referring to the difference between the Participant Feedback form and Telephone Interview. We take the time to explain each part of the process and how a variation in a question may happen so accurate data can be captured depending on the stage of the process. We have done better getting telephone interview responses than we have in the past as we tighten up our process and enhance communication with clients.” Ultimately, the success of PMP surveys relied heavily on the altruism and social responsibility of participants and survey administrators and on their willingness to contribute to the effectiveness of the PMP for the good of other disputing parents and their children.

Survey changes: Several changes in the measuring instruments used to obtain parent data were either implemented in FY 2018 or planned for FY 2019 implementation. A modified version of the parent survey was used during the 2018 fiscal year, where the wording of a question about the mediator’s help in reinforcing the parent’s autonomy was changed from “gave me more control over decision-making” to a more straightforward rendition of the party’s mediation experience, namely, “allowed me to make my own decisions.” For three years, from FY 2015 to FY 2017, at most 37% of surveyed parents acknowledged the mediator’s helpfulness with gaining control over decision-making in mediation while, in FY 2018, 66% of parents reported that, with the mediator’s help, they were allowed to make their own decisions during mediation.

In response to the DOR’s expressed interest in acquiring information about the effect of mediating parenting time on child support, plans were made in FY 2018 to adjust both the written and telephone surveys of parents so as to elicit information about the connection, if any, between the parent’s time with the child and that parent’s financial support for the child. Accordingly, the FY 2019 versions of the written and telephonic parent surveys will each include a question asking parents to characterize the kind of impact that any of a number of listed factors

⁸ “Internal surveys will generally receive a 30-40% response rate (or more) on average, compared to an average 10-15% response rate for external surveys.” Fryrear, A. (2015, July 27). What’s a good survey response rate? [surveygizmo.com/resources](https://www.surveygizmo.com/resources/blog/survey-response-rates/). Retrieved July 28, 2018, from <https://www.surveygizmo.com/resources/blog/survey-response-rates/>

had on their financial support for the child, including the factor of the parent's time and access to the child.

III. Impact of PMP services on the population served:

The impact of PMP services on parents in conflict over parenting issues arising from divorce or separation constitutes the most authentic measure of the worth of the PMP. That impact may be determined from parents' and mediators' judgments about what was achieved through mediation as expressed in their responses to PMP surveys. The surveys were chiefly composed of closed-ended questions accompanied for the most part by a menu of research-based or experience-based options. Many questions included an open-ended option that offered respondents the opportunity to mention alternatives or offer explanations. The analysis of the data collected through these surveys in FY 2018 involved aggregated responses expressed as percentages to the nearest integer, which, however, only applies to the group of parents who responded to surveys or whose mediation sessions were portrayed by surveyed mediators in FY 2018.

A. Circumstances of surveyed parents who participated in PMP mediation in FY 2018:

1. Characteristics of surveyed parents:

Demographics of parent survey respondents – race/ethnicity: Race/ethnic affiliations reported by mediating parents in FY 2018 reflected the racial/ethnic makeup of the Massachusetts state population, which was estimated as majority White (at 81.8%) and noteworthy minorities of Hispanic/Latinos (11.5%), Black/African-Americans (8.6%), and Asians (6.7%) in 2017.⁹ Whites predominated among PMP parents in FY 2018, comprising 65% of 164 parents, with the next largest racial/ethnic group constituted by Hispanic/Latinos at 26%; followed by Black/African American at 9%. The diversity of PMP's mediating parents increased during the second half of FY 2018 as the proportion of parents claiming Asian or American Indian/Alaska Native identity increased from 0% to 1% and 2%, respectively.

Demographics of parent survey respondents – income levels: Parents from a wide range of income levels took advantage of PMP services. Ten percent of 151 parents reported incomes at the lowest end of the income spectrum under consideration, that is, less than \$10,000, while 10% were at the highest level of \$65,000 or more. The vast majority of or 70% of 151 parents,

⁹ United States Census Bureau. QuickFacts Massachusetts. Retrieved February 8, 2018, from <https://www.census.gov/quickfacts/MA>

however, had incomes below \$40,000, indicating that the PMP primarily served a lower-income population during the 2018 fiscal year.

Parent's custodial status: Out of the 166 post-mediation surveys completed by parents during FY 2018, 78% or 130 parents identified their custodial status. Nearly two-thirds of the 130 parents (65%) regarded themselves as the custodial parent while approximately one-third (35%) were non-custodial. On these post-mediation surveys, parents' identification of their custodial status might or might not coincide with the Program's initial assignment of custody status and might or might not reflect changes in parents' responsibilities regarding child care that were agreed to during mediation. The case was otherwise for parents interviewed weeks after their mediation. The Program's original designation of custodial status constituted the parent's custodial status recorded for the telephone survey. A majority of 57% of 123 interviewed parents were custodial and 43% were non-custodial.

Parents' source of information about the PMP: The courts were the chief source of information about the mediation services offered by the PMP. Fully half or 50% of 164 surveyed parents learned about the PMP from their judge – either through judicial recommendation (27%) or order (23%). Another 28% of parents heard about the Program from court personnel. Less than 10% of parents found out about the PMP from friends or family (i.e., 7%) or from the internet (i.e., 9%).

Parents' reasons for mediating: The free services offered by the PMP were not a major reason motivating most parents to engage in PMP mediation. A small minority of 20% of 165 parents were induced to mediate by the absence of fees. One parent, for example, found it “helpful to have free mediation sessions available to use through the program.” In contrast, the majority of parents (55%) chose to mediate because it was a better alternative than court proceedings. As one parent remarked, “It [mediation] was a better option than going back to court.” Mediation's positive reputation attracted a large minority of 40% of parents to mediation while the accessibility of mediation services was important to a smaller minority of 27%.

2. Circumstances making up the context of mediation:

Parents' difficulties: The task of resolving parenting disputes through mediation was often complicated by the difficulties that beset parents. As reported by mediators, problems with cooperating about child-related issues along with distrust and disrespect for the other parent existed during most sessions (at 64%, 60%, and 57% of 172 sessions, respectively). Parents at nearly half the sessions (49%) struggled to tolerate the dissimilarities between them and the other parent. Moreover, almost half the sessions (49%) involved parents who conflated their needs

with those of their child. Situations involving harsh discipline of children or police involvement were associated with the fewest sessions (under 10%).

Conflict during mediation: The presence of party conflict during mediation may militate against the resolution of disputes. Researchers have found that high levels of conflict may reduce the likelihood that disputes will get settled.¹⁰ Conflict tended to pervade final PMP mediation sessions throughout FY 2018 according to 95% of 165 surveyed parents in 88 cases. A plurality of 39% of parents characterized their conflict during mediation as moderate. Low conflict levels were experienced by 32% of parents. A somewhat smaller minority of 25% considered their conflict intense. Mediator assessment of conflict levels during 140 final sessions was comparable to that of parents, with moderate conflict present during the largest minority of sessions (37%), high and low levels of conflict typifying smaller minorities of sessions – that is, 33% and 29%, respectively – and the smallest portion of sessions (3%) remaining conflict-free.

B. Mediation outcomes:

1. Forming agreements:

The resolution of disputes accomplished through mediation is typically memorialized in agreements between parties. Generally speaking, divorce mediation agreement rates across the nation range from 50% to 80%.

Agreements reached under the PMP: The agreement rates achieved through PMP mediation during FY 2018 fell within the national range. Based on the responses of 146 surveyed parents in 88 cases, full agreements were reached by 49% of parents, partial agreements were achieved by 18%, and temporary agreements were reported by 9%, resulting in a rate of 76% which encompasses all agreements – both long-term and temporary – and 67% for just full and partial agreements. One-fourth (25%) of the parents failed to reach any agreement.

The agreement outcomes reported by mediators were generated by 140 mediated cases over 195 sessions, consequently producing agreement rates that more comprehensively reflected the resolution of parenting disputes through the PMP for the 2018 fiscal year. Combining the percentages for full (24%) and partial (45%) agreements, the mediator-reported agreement rate turned out to be 70%. The addition of temporary agreements (17%) raised this rate to 87%. The failure rate was 17%.

¹⁰ Ballard et al., *op. cit.*

PMP agreement rates and mediation conflict: The accord between the proportion of high conflict sessions and the amount of agreement failure apparent in parents' accounts aligns with research-based expectations about the downward impact of conflict on dispute settlements. Twenty-five percent of parents (that is, of 165 parents) experienced intense conflict during mediation, and the same proportion of parents (that is, 25% of 146 parents) failed to reach agreement. This alignment should not, however, be taken as evidence of a causal connection. In mediator reports, high conflict levels were present at 29% of 195 sessions but the proportion of sessions which produced no agreements was considerably lower at 17%. Whereas one mediator succeeded in facilitating agreement despite high levels of anger: "I believe both parties genuinely wanted to work things out between them, but the anger they had towards one another got in the way. My providing support and validation to both of them in private sessions and being clear that I was not judging them helped them move beyond their anger to resolve the issues under consideration," another mediator was stymied by parents' conflict in a different case: "No matter what I tried the parties were unable/unwilling to stop arguing.They seemed far more committed to putting the other down than in reaching a mutually acceptable parenting plan."

Parenting plans: Parenting plans comprise a special category of agreement wherein parents' come to an understanding about how to apportion their child care responsibilities between themselves, including setting up parenting time schedules, and thereby presumably lessening the likelihood of future discord about their child. Under Massachusetts law (MGL ch.298 §31), parenting plans, also known as shared custody implementation plans, are required in custody cases. Under the PMP, more than 85% of parents were interested in either developing a parenting plan (88% of 153 parents) or in revising an existing plan (86% of 131 parents). Sizable majorities of more than two-thirds of responding parents credited mediation with helping them to complete (74%) or revise (69%) their plans. Mediators confirmed that parenting plans were either fully or partially developed or modified in 83% of 143 cases. Mediator assistance to parties with devising such plans took various forms: in one case, the mediator "helped parties focus on the topics regarding the parenting plan; asked questions that helped parties clarify future changes in parenting responsibilities." The consequence for parents in another case, according to the mediator, was that "they [the parents] have a clear parenting schedule now so less room for conflict." Parents were appreciative about the advantages of parenting plans, pointing out the benefits for their child and for the parent-child relationship: "We also have a parenting schedule in writing which will create stability for the kids," remarked one parent, and "I think the current parenting schedule we created in mediation is giving them [the other parent and the child] more quality time together" opined another parent.

C. Mediation outcomes other than reaching agreements:

The encounter between disputants within the mediation process may lead to beneficial outcomes for parties that go beyond the formation of agreements, including positive impact on communication, conflict, parenting, and process satisfaction, among others.

1. Interactions between parents:

Impact on communication between parents: Mediation involves a communication process in which the mediator strives to encourage productive discussion between disputants. Parents were generally positive about the impact of PMP mediation on their communication with one another in FY 2018. Better parent communication mattered to most parents – nearly all responding parents (96% of 166) regarded improving communication with the other parent relevant to mediation. After mediation, improving parent communication continued to be relevant. Only a minor proportion of parents interviewed up to at least four weeks after mediation (2% of 123) dismissed the on-going significance of better parent communication.

During FY 2018, PMP mediation was effective in helping more than two-thirds of responding parents (68% of 166) make either complete or partial progress in bettering their communication with one another. As an example, consider the parent who found that “mediation helped with communication but we are still working on the financial details.” Even with respect to sensitive areas involving issues or views about appropriate parenting, communication was advanced through mediation for most parents. Thus, on account of mediation, some degree of improvement in their ability to discuss issues with the other parent was experienced by a robust majority of parents (78% of 137). A smaller, but still sizable, majority of parents (64% of 163) were better able to express their parenting expectations to the other parent, either fully or partially, due to mediation. And so, for one parent, mediation had “given the other parent a lens into my thinking and behavior with regards to the child.” For approximately one-fourth of responding parents, though, better parent communication through mediation proved elusive. Improvements in communicating with the other parent, in discussing issues with the other parent, and in expressing parenting expectations to the other parent failed to materialize for 28% of 166 parents, 23% of 137 parents, and 25% of 163 parents, respectively.

Mediators’ perspective on the gains in communication made by mediating parents was consistent with that of parents. According to mediators, communication between parents improved in 75% of 143 cases. Likewise, parents’ ability to discuss issues and express their parenting expectation showed at least some improvement in most cases (78% of 143 cases and 70% of 142 cases, respectively). Mediators employed various strategies to facilitate party communication. In one case, the mediator worked on “helping them [parents] hear each other.” The mediator in another case used active listening and individual sessions with the result that “parties listened to each other, talked and were more open to trying to work out settlement.” A

third mediator noted that in the mediation of one case, “issues are not disappearing quickly, but parents are learning how to better address difficult subjects, how and when they best communicate, and beginning to absorb the reality of the divorce as they plan to separate.” In a fourth case, the mediator remarked that “communication allowed each party to hear how important parenting was to the other.” Failure to achieve better communication, better issue discussion, and better expression of parenting expectations characterized a corresponding 23%, 19%, and 18% of these cases. As one mediator found, at a session involving “very high conflict; [the] mother was too upset to listen to father or to the mediators; she ended session after one-half hour.”

Communication gains persisted beyond the end of mediation for a substantial minority of mediating parents. Forty-three percent of 123 parents interviewed after an up-to-at least-four week interval following mediation reported increased communication with the other parent. In one parent’s account, due to mediation, a “formal way of communication was established between the parents, making it less stressful on the child, who no longer need[ed] to be involved in adult decision-making.” A comparably substantial minority of parents (42%) considered their communication situation unchanged. Only a small number of parents (12%) indicated that their parent communications had diminished.

Impact on contentious relationship between parents – reducing conflict: Parents were nearly unanimous about their interest in ending their hostilities. Ninety-eight percent of 165 responding parents considered the issue of reducing conflict with one another relevant for mediation, and, up to at least four weeks later, the issue remained relevant to 94% of 123 interviewed parents. Mediation was helpful in reducing conflict, either completely or partially, for 68% of these parties. Consistent with parents’ responses, mediators observed that conflict had diminished in full or in part by the last mediation session in 74% of 143 cases. Parent conflict was still reduced in the weeks after mediation for a smaller but still large minority of 45% of 123 interviewed parents. As one parent observed, “as parents we are fighting less, and that has had a positive effect [on the child].” Otherwise, progress in decreasing conflict was not realized in mediation for a noteworthy minority of parents (30% of 166 parents) and cases (23% of 143 cases reported by mediators). After mediation, conflict between parents remained unchanged with the passage of time for 33% of the interviewed parents, and, for a small proportion of these parents (16%), parent conflict was on the increase.

Impact on contentious relationship between parents – managing conflict: Mediation offers disputants the opportunity to hone their ability to resolve conflict with the other party. Besides assisting parties in deploying conflict resolution skills during mediation, mediators model the use of such skills. The mediator in one PMP case, for instance, found it useful to “teach [parents the] skill of disagreeing without attacking.” During the 2018 fiscal year, an overwhelming majority of parents (95% of 164) deemed the acquisition of improved conflict

resolution skills appropriate for mediation attention, and a substantial majority (71%) made at least some progress in improving their skills. By their final mediation session, mediators considered that parents in most cases (68% of 143) had improved in their ability to resolve conflict with each other to some degree. Failure to improve resolution skills applied to 24% of surveyed parents' and to parents in 27% of 143 cases described by mediators.

Continued growth in their ability to manage conflict was not sustained for most parents. Improvements in conflict skills occurred over an up-to-at-least-four-week interval after mediation for a minority of interviewed parents (38% of 123). A larger minority (43%) regarded their conflict skills unchanged. A decline in these skills over time was experienced by a small number (7%) of these parents.

Impact on contentious relationship between parents – civility: Consistent with research showing that parents' relationship with one another was considered more cordial by divorced parents who mediated than by those who litigated,¹¹ the abatement of parents' contentiousness was accompanied by greater civility between most surveyed parents by virtue of PMP mediation. Increasing civility was a pertinent matter to be addressed by mediation according to the vast majority of responding parents (94% of 164). A more civil relationship with the other parent was established through mediation in full or in part by 65% of the parents. Similarly, mediators found that civility between parents increased at 61% of 143 cases. Yet, for a minority of parents (29% of 164) and in a minority of cases (22% of 143), an increase in civility eluded mediating parents. Although increased civility was maintained throughout the up-to-at least four week period following mediation for a little over one-third of interviewed parents (36% of 123), civility dwindled for a small minority of these parents (12%). Meanwhile, the status quo in civility was preserved among almost half the parents (49% of 123).

2. Parent-child interactions:

Applicability of mediation to parent-child interactions: Unlike the widespread recognition by more than 90% of parents and mediators regarding the applicability of mediation to issues involving parent interactions like communication and conflict, parent and mediator acknowledgment of the relevance of mediation for issues related to the interactions between parent and child was very limited. Success in making gains in parent-child interactions through mediation was also less prevalent than were gains in communication and conflict. It is noteworthy that party communication and conflict are processes that are woven into the mediating process itself whereas parent-child interactions constitute the substance, the subject

¹¹ Couples who used mediation in their divorces were more likely to consider their relations with the other party as cordial than were couples who relied on litigation (Bautz & Hill, *op. cit.*).

matter, of the PMP mediation process. This process-substance distinction may be one reason for the less favorable responses of both parents and mediators about the applicability of mediation for parent-child interactions compared to their responses concerning mediation and parent-parent interactions.

In any event, among all surveyed parents, the proportion of parents who considered the various types of parent-child contacts, of parent involvement in the child's life, and of financial support appropriate for mediation did not exceed 69%. This is an unexpected result given that parents turned to the PMP for assistance with disputes over the parenting of their child. The high proportion of custodial parents who completed the survey may further explain the lower incidence of parent's favorable attitudes towards mediating child-related issues. Out of the 166 surveys completed by parents directly after mediation, 130 (78%) indicated their custodial status. A majority of 65% of the 130 parents self-identified as custodial while a minority of 35% indicated they were non-custodial. The telephone survey of parents conducted weeks after mediation identified the interviewee's custodial status according to the PMP's initial determination of custodial status irrespective of parents' views or subsequent custody developments. Out of 123 interviewed parents, 57% (or 70) had custody and 43% (or 53) did not.

Custodial parents are privileged in their interactions with the child. Legal custody gives the parent primary responsibility for decisions about the child, and physical custody means that the parent and child live together while the non-custodial parent may visit the child. Even when custodial status is informally assigned on the basis of each parent's assumption of child-rearing responsibilities, as was done by the PMP, parents who are the primary caretaker of the child tend to be advantaged in raising and making arrangements for the child. Due to their secondary role in the child's life, the concerns of non-custodial parents about child care issues often diverge from those of custodial parents.

Parent-child contact: Parents' eligibility for PMP mediation services required that their parenting disputes revolve around issues with parent-child contact, such as parental access to the child, visitation with the child, time spent with the child, and preventing a decrease in the parent's time with the child. The universality of this situation among the parents who participated in PMP mediation was not matched by the frequency of their affirmative assessments of the applicability of mediation to these issues. A modest majority of parents – below two-thirds of respondents (from 53% to 65% of 162 to 165 responding parents) – considered the aforementioned parent-child contact issues amenable to mediation.

Disaggregation of parents' responses by custodial status revealed that the greater representation of custodial parents in the survey sample contributed to the lower incidence of parents' positive determination of the relevancy of parent-child issues for mediation. The

proportion of non-custodial parents who regarded parent-child contact issues relevant for mediation was higher than custodial parents by at least 30 percentage points. Sizable majorities of non-custodial parents affirmed the applicability of mediation for expanding access to the child (87% of 45), visitation with the child (83% of 46), increasing time with the child (80% of 46), and preventing less time with the child (71% of 45). A smaller majority of custodial parents (54% of 83) agreed about the relevance of access, as did considerable minorities of these parents regarding the relevance of visitation (49% of 83), time with child (46% of 84) and preventing less time with child (40% of 83). Custodial status did not, however, fully explain the disparity between custodial and non-custodial parents' views about the suitability of mediating parent-child contact issues as opposed to parent-parent interaction issues. Compared to communication or conflict issues, which mediators found applicable at a minimum of 93% of final mediation sessions in 143 cases, mediators regarded parent-child issues relevant to mediation at fewer sessions (that is, relevant to at most 79% of 143 sessions).

Custodial parents' responses also depressed the reported rate of progress in addressing parent-child contact issues. Minorities of all responding parents (from 32% to 45% of 163-165 parents) reported complete or partial progress in increasing access, visitation, time with child, and preventing less time with the child. With respect to custodial parents, though, smaller minorities (from 19% to 34% of 83-84 parents) achieved a degree of success with their parent-child contacts. In contrast, higher percentages of non-custodial parents experienced progress in these areas – at least 25 points higher than custodial parents. Accordingly, majorities of non-custodial parents (from 54% to 60% of 45-46 parents) made progress with increased access, visitation, or time with the child, and a sizable minority (46% of 45 parents) progressed in preventing a decrease in their time with the child. Like non-custodial parents, mediators too found that progress was achieved with respect to parents' access, visitation, and time with the child at a majority of final sessions (from 52%-59% of 140-143 sessions).

The durability of gains made in the parent's time with the child was examined in interviews of 123 parents up to at least four weeks after mediation. The amount of the parent's time with their child since mediation was greater for 30% of the 123 parents. Among these parents, non-custodial parents tended to fare better than custodial parents inasmuch as nearly half the non-custodial parents (49% of 53) had more time with the child while only about one-sixth of the custodial parents (16% of 70) did so. Time with child remained the same, though, for most custodial parents (63%) and fewer non-custodial parents (38%).

Parent's involvement with the child: Parent responses about a second category of parent-child issues – viz., parental involvement with the child – also differed according to custodial status, exhibiting much the same trends that characterized parents' reports about parent-child contact issues. With respect to parents' own involvement with the child – that is, with the child's

education and extra-curricular activities, with parental ability to handle conflicts with the child, and with learning more about parenting skills – minorities of custodial parents (from 26%-49% of 82-84 parents) thought mediation was an appropriate way to approach these issues whereas majorities of non-custodial parents (from 65%- 74% of 44-46 parents) thought so – a difference of at least 25 percentage points. Like the custodial parents, mediators viewed these parent involvement issues relevant at a minority of final sessions (from 20% to 32% of 141-143 cases). In contrast, when the issue at hand concerned the other parent’s involvement with the child, majorities of both custodial parents (72% of 83) and non-custodial parents (61% of 46) found mediation suitable. Similarly, mediators regarded mediation appropriate for helping to increase parent involvement with the child at a majority of final sessions (65% of 142).

Progress with increasing parent’s own involvement with the child’s education and extra-curricular activities, with his or her ability to handle conflicts with the child, and with learning more about parenting skills was achieved by minorities of parents (ranging from 25%-37% of 162-165 of all responding parents, 18%-31% of 82-84 custodial parents and 31%-33% of 44-46 non-custodial parents). In one case, for instance, the custodial parent noted approvingly that the non-custodial parent “now has a better understanding of what he needs to do to be involved in our child’s life as a good father.” The absence of progress in furthering the above varieties of parent’s own involvement, reported by 19%-22% of responding parents, was more striking among non-custodial than custodial parents, topping out at 33% of 46 non-custodial parents and only 18% of 83 custodial parents. Mediators saw progress in parental involvement with the child at a modest proportion of final sessions (20%-32% of 141-143).

Improved parent involvement with the child persisted for up to at least four weeks after mediation for small minorities of parents. Out of 123 interviewed parents, 20% were more involved with the child’s education and 21% had greater involvement with their child’s extra-curricular activities. Parent involvement with these facets of the child’s life was unchanged for larger proportions of these parents – 44% of parents with respect to education and for 70% regarding extra-curricular activities.

As for the other parent’s involvement with their child, more custodial parents than non-custodial parents were positive about the progress achieved by the other parent through PMP mediation. A narrow majority of 52% of 83 custodial parents and a minority of 27% of 46 non-custodial parents thought the other parent was at least somewhat more involved with the child. Among all responding parents and irrespective of custodial status, a sizable minority (47% of 164) indicated that progress was achieved in increasing the other parent’s involvement with the child. With respect to the longevity of the other parent’s involvement in the child’s school and after-school life, a small minority of interviewed parents (10% of 122) indicated that that the growth in the other parent’s participation in the child’s education or extra-curricular activities was on-going up to at least four weeks after mediation.

Parents' financial support for the child: Apropos a third category of parent-child interactions – namely, financial support for the child – custodial and non-custodial parents were in rough accord about the financial implications of mediation for their child. Majorities of both groups thought it appropriate to mediate issues involving increasing the parent's own financial support for the child (53% of 83 custodial and 62% of 45 non-custodial parents) or helping the child obtain more financial support (56% of 81 custodial and 57% of 46 non-custodial parents). Likewise, minorities of custodial and non-custodial parents (between 20%-29%) reported some progress with increasing their own financial support or with finding additional financial support for the child. Considering all parents' responses, 28% of 163 parents received some mediation help with increasing their financial support for their child, and 28% of 162 parents thought mediation was useful with increasing financial support for their child. However, one-third (33%) of responding parents failed to make any progress with their child's financial support in mediation. By the end of an up-to-at-least four week period following mediation, the proportion of interviewed parents reporting increased their own financial support for the child was diminished by eight points to 20% (of 123 parents). A similar proportion of interviewed parents (19% of 122) thought that the other parent's financial support had increased during the post-mediation period.

Association between parent's time with child and parent's financial support for the child: Research-based evidence suggests that, among the many factors that influence whether a non-resident parent provides financial support to the child, spending time with the child may encourage such a parent to contribute financially to the child's welfare.¹² The PMP is designed to assist separating or divorcing parents primarily with their disputes about parenting time issues, and child-related financial concerns are addressed only if parenting time is affected. Consequently, any impact of PMP mediation on the child's financial situation would necessarily be limited. Nevertheless, an examination of the association between parents' reports about their time with their child and about their financial support for their child may provide hints about the possibility that financial benefits may accrue to the child as a result of PMP mediation.

Among all the parents who were surveyed directly after mediation, 38% of 164 or 63 parents indicated that they had made complete or partial progress in increasing the amount of time spent with their child. The proportion of parents who increased both their time with their child and the financial support they provided to the child – that is 43% of 63 or 27 parents – was greater than the proportion of parents who gained more time with the child without increasing

¹² Nepomnyaschy, L. (2007, February). Child support and father-child contact: Testing reciprocal pathways. *Demography*, 44:1, 93-112. See <https://link.springer.com/article/10.1353/dem.2007.0008>

their own financial support for the child – that is 27% of 63 or 17 parents. The difference between the proportionate sizes of these two groups of parents – that is, between parents with more time and more financial support for the child and parents with more time but no additional financial support for the child – became even more striking after the passage of time. Following a lapse of up to at least four weeks, 32% of the 37 or 12 parents who spent additional time with the child had also increased their financial support for the child while only 3% of the 37 parents with more child-time – namely, a single parent – failed to increase their financial support for the child.

When parents' responses about their time with the child and their financial support for the child were disaggregated by custodial status, the numbers produced were so small that actual numbers are examined here in order to avoid any confusion arising from the use of percentages. Accordingly, directly after mediation, 22 self-identified custodial parents and 25 self-identified non-custodial parents gained more time with their child. Eight of the custodial parents with more child-time also provided more financial support to the child, while six of the custodial parents with added child-time did not increase their financial support for the child. Meanwhile, eight of the non-custodial parents with more child-time provided additional child support whereas another eight non-custodial parents failed to add to their child's financial support even though they had gained more time with their child. After up to at least four weeks went by, 11 PMP-identified custodial parents and 26 PMP-identified non-custodial parents reported having a greater amount of time with their child. Four of these 11 custodial parents increased their financial support of the child, but one custodial parent did not. Eight of the aforementioned 26 non-custodial parents provided additional financial support for the child. None of these 26 non-custodial parents failed to augment their child's financial support. In sum, the data suggest that, depending on circumstances, one outcome of PMP mediation during FY 2018 for the group of surveyed parents was financial support to several children from some non-custodial parents who had more time with their child.

Impact of parent's participation in mediation on the child: Despite the large proportion of parents who considered child-related matters irrelevant to mediation, a substantial number acknowledged the value their child received from their participation in mediation. Even though the progress made with improving the various types of parent-child interactions discussed above lasted for less than one-third of interviewed parents, a greater proportion of the interviewed parents reported that, after the passage of some weeks, just participating in mediation had a positive effect on their child. Nearly two-thirds or 64% of 122 parents considered that their own mediation participation was beneficial to the child, and 45% of 120 parents thought the same about the other parent's participation in mediation. Several parents, for example, valued the increased time with the child that resulted from mediation. "It [mediation] was a fair process that led me to having more time with my child since our mediation," remarked one parent. "My kids

and I have more time together. Always a positive outcome,” said another parent. A third parent approved the time that the other parent was spending with the child: “I think the current parenting schedule we created in mediation is giving them [the other parent and child] more quality time together.” And a fourth parent noted that since mediation her “children have less anxiety about having to spend more time with the other parent because time together is clearly defined now.” On the other hand, children of 32%-45% of 120-122 parents were not impacted one way or the other by their parents’ mediation experience. One parent explained the lack of impact, saying “my daughter is young; we don’t talk about the ins and outs of court proceedings/mediation.” Less than 10% of parents indicated that their own or the other parent’s mediation participation negatively affected their child.

3. Parents’ institutional relationships in FY 2018:

Court involvement: Mediation has been promoted as an alternative to court processes for resolving disputes.¹³ Moreover, avoiding further court intervention was desired by most PMP parents (55% of 165 responding parents) in FY 2018. Accordingly, a large majority of parents (85%) regarded the goal of less court involvement suitable for mediation. Thus, as a result of mediation, progress was made in reducing court involvement in the cases of a sizable majority (64%) of the parents. As one parent said, “mediation was better than going through the court system.” This opinion was shared by a second parent, who observed that “it [mediation] was a better option than going back to court. I wouldn’t change anything. Overall, it was positive.” Progress in reducing court involvement stalled for 22% of parents. As one parent observed, despite mediation, “problem [was] not resolved – had to go to court.” Mediators’ reports about final mediation sessions in 141 cases revealed that reducing court involvement court was not a relevant issue in one-third (33%) of cases but that progress towards that end was achieved in a large minority of the cases (47%). And so, the mediator in one case observed that parents “developed their own agreement so they don’t need to involve court or police.” The mediator’s assistance with generating options and encouraging a child-centered focus allowed parents in another case to progress with “cutting down some time in court and establishing a plan that allows fair time with children.” In 21% of the 141 cases, mediators found there was no movement towards decreasing court involvement.

Services and welfare: One of the services provided by the community mediation centers involved in the PMP was to connect parties with other organizations so that party needs could be handled better. Parents were generally positive about the appropriateness of increasing awareness of community services and resources through PMP mediation (62% of 163 parents) and progress was achieved to some degree for 42% of parents. With regard to mediation in 141 cases,

¹³ For example, Congress encouraged federal courts to include mediation in their alternative dispute resolution programs (see <http://www.adr.gov/ADR%20ACT%201998.pdf>)

mediators found that increasing parents' awareness of community services or resources was inapplicable to mediation in 78% of 141 cases, yet a degree of progress in raising awareness of opportunities in the community was achieved in 16% of cases. Mediators reported referring parents for such services as legal advice from law organizations or court service centers, counseling, therapy, educational consulting, and substance abuse treatment

Parents and mediators mostly agreed about the unsuitability of mediation for dealing with welfare issues and about the failure to make progress in dealing with such issues through mediation. Over three-fourths of responding parents (76% of 158) regarded welfare dependency irrelevant to mediation although progress in reducing welfare dependency was accomplished to an extent for 9% of parents. Mediators reported that the issue of welfare dependency was unsuitable for mediation in nearly all cases (94% of 141). Successful reduction in welfare dependence did occur in a single case (.07%) and failed to materialize in ten other cases (7% of 141).

D. Parents' reaction to PMP mediation:

1. Parents' assessment of the Program:

Feedback from parents was by and large favorable about PMP mediation. An overwhelming majority of responding parents (89% of 163) were willing to use the program again, and nearly all the respondents (97% of 162) would recommend the program to others. One parent observed that mediation provided "quality caring attention all around." Another parent remarked "this is a great program," and a third parent described the PMP as a "wonderful program." A fourth parent went so far as to urge, "make mediation mandatory." A fifth parent was enthusiastic about the program's impact on the child: "the mediation program has made huge changes for our co-parenting for our daughter. I can't even express how grateful I am that they've offered these programs to our family –it's changed our lives. It's made my daughter life so much [better]." To the extent that mediation fell short of party expectations, some parents put the blame elsewhere rather than on the program. As one parent pointed out, "I knew mediation would not work for us, but I was hopeful anyway[.]. We see a judge next week, but the other parent is still stuck in the past and has a very negative impact on my family." According to a second parent, "mediation helped for a little while, but the other parent is stuck in his ways and things went back to the way they were before mediation."

2. Parents' feedback about mediators:

Tactics employed by mediators: Whatever benefits accrued to parents from PMP mediation, they were partially attributable not only to the efficient operation of the program, but most especially to the skill of the mediators who delivered mediation services. Mediators

employed a multitude of strategies to enable parents to navigate the PMP mediation process effectively. Active listening was the most frequently used method in FY 2018, deployed in just over half or 51% of 198 sessions. Active listening consisted of a cluster of techniques such as summarizing, reflecting back, paraphrasing, and so on, through which the mediator endeavored to thoroughly understand what the parent was expressing and then to communicate this understanding to the parent.

The technique of reframing, where changes were made in the way a matter was being considered, was the second most common mediation method, used in nearly one-third of mediation sessions (32% of 198). By virtue of the reframing technique, one mediator noted that the parties were able “to recognize that the conflicts that brought them to court were not so much between the parents but rather about their shared concern for their child and their difficulty co-parenting a child with significant behavioral issues.” Reframing was useful in one mediation session for turning “complaint comments into needs” and, in a second session, for “reframing negative statements as an expression of an underlying thought, concern, or feeling.”

At more than one-fourth of the sessions (28%), mediators used re-focusing to increase constructive discussions between parents. Through this tactic, parents were encouraged to direct their attention towards matters that would promote productive dialogue. Thus, one mediator “redirected parties back to the topics [regarding the parenting plan] when emotions escalated.” Another mediator used “reminders and pauses to prioritize the needs of the children.” At a different session, the mediator guided parents to “focus[] on practical solutions with child’s needs included.” Mediators in another case “kept clients future-focused and on track rather than discussing history.” And parents in a different case were “remind[ed that] parenting is forever.”

Nearly one-fifth of sessions (21%) involved attempts by the mediator to get parents to actually engage in constructive communication with one another. Accordingly, mediators at two different sessions “encouraged parents to speak with each other rather than directing their communication to the mediator.” At several other sessions, mediators had “parties paraphrase each other.” At sessions where one parent dominated the mediation, the mediator made an effort to encourage the “voice of [the] less articulate parent.” By means of an emphasis on parent-to-parent communication, the mediator enabled parents in one case to recognize “different basic modes of communicating and thinking between [the] parents.”

Validation, reality testing, open-ended questions, caucusing, exploring options, problem-solving, finding common ground, reinforcing positive efforts were among the additional techniques used by mediators in less than 18% of sessions to make parents’ participation in mediation more effective. As a result of the artful exercise of their considerable mediation techniques, the assistance provided by mediators met with the approval of a goodly number of parents.

Parents' assessment of mediators: More than 80% of 159 surveyed parents commended mediators for being fair and unbiased (82%) and for listening to them talk about needs and concerns (84%). One parent noted that “the mediator was great and he really listened to my needs. We couldn’t reach an agreement around the parenting plan simply because my ex has virtually no capacity to compromise.” Many parents also appreciated mediator assistance with clarifying issues (77%) and generating options for resolving disputes (70%). For one parent, “mediation clarified what I needed and how that was going to fit within her mom’s agenda.” As another parent observed, “we came up with some good possible co-parenting ideas which were generated as a result of mediation and hopefully will benefit our child down the road.” The opportunity to make their own decisions pleased two-thirds (66%) of parents. According to one parent, “this mediation process helped clarify my autonomy and decision-making ability for my children, which is positive for them.” Sixty-four percent of parents also valued the mediator’s help in writing up their agreement. One parent explained that “mediation was helpful in getting us to the point where we could draft an agreement for co-parenting.” Another parent experienced the disadvantages of not formalizing their agreement, saying “we chose not to do a written agreement [for parenting time and child support] to keep things out of court. That means I have no control over our verbal agreement being held which at times is not.” A third parent complained about defects in the written form of the agreement: “the agreement was printed double-sided, however the court needs documents one-sided and the mediator instructed us to give the incorrect form to the court.” Aside from some criticisms – e.g., “I was not happy with our first mediator. I feel with high conflict, she was not the best. But with our 2nd mediator, I can’t say enough good [things]” – most parents were enthusiastic about their mediators, saying that “the mediator was great, very professional,” “the mediator helped us work through this process which was otherwise stuck,” “mediator was excellent,” and “our mediator was great, she deserves a big pat on the back.”

IV. Conclusion:

Under PMP auspices, the delivery of mediation services to parents quarrelling over parenting issues that arose out of divorce or separation together with the impact of mediation on the parents served confirmed that the grant money that was invested in the PMP for FY 2018 in all likelihood provided substantial value to the parents and children involved with the program. The timely fulfillment of administrative duties and the productivity of centers in delivering highly regarded mediation services that exceeded expectations enabled a majority of at least two-thirds of surveyed parents to settle their disputes and agree about parenting plans. Likewise, for nearly two-thirds of parents, court intervention was reduced.

Other mediation benefits that were conferred upon a majority of 65% or more PMP parents included gains in improving communication, reducing conflict, and increasing civility

between parents. Success in advancing various aspects of their relationship with the child was achieved by a larger proportion of non-custodial parents than custodial parents. However, financial support for the child was increased by a modest minority of all surveyed parents.

The gains made in mediation for improved parent-parent and parent-child interactions persisted in the weeks following mediation for a diminished number of parents. Yet, almost two-thirds of parents interviewed up to at least four weeks after mediation considered that their child benefited from their participation in mediation. Finally, overwhelming majorities of parents were satisfied with the PMP, willing to mediate again and recommend the program to others.

V. Recommendations:

- (1) The demonstrated value of the PMP should encourage centers, with MOPC support, to renew their efforts to convince additional probate courts to get involved with the PMP. If successful, more parents will be able to avail themselves of the benefits of mediating their parenting disputes even as these courts contribute to increasing people's access to justice.
- (2) To secure the reliability of the information that forms the basis of program evaluation, the MOPC Research Unit should take steps to assure the uniformity of data collection and avoid even the perception of a conflict of interest in its data acquisition. Accordingly, the Research Unit should clarify the parameters of data collection, identify whether exceptions exist and whether Research Unit approval is required for exceptions to be exercised, and then communicate these decisions to MOPC administration, center staff, and mediators. It should be made clear that the MOPC Research Unit alone is authorized to make decisions about program evaluation, including the development and use of evaluation instruments as well as data collection and analysis.
- (3) To make sure that the information underlying program evaluation be as comprehensive as possible, information about program developments should be directly communicated to the Research Unit within the fiscal year under consideration.