

SIX PROGRAMS, SIX MODELS:

**AN EVALUATION OF THE FORECLOSURE MEDIATION
PROGRAMS FUNDED BY THE OFFICE OF THE ILLINOIS
ATTORNEY GENERAL**

RESOLUTION SYSTEMS INSTITUTE



RSI

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AN EVALUATION OF FORECLOSURE MEDIATION PROGRAMS FUNDED BY THE OFFICE OF THE ILLINOIS ATTORNEY GENERAL

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RESOLUTION SYSTEMS INSTITUTE

Formed in 1995, Chicago-based Resolution Systems Institute is a non-profit organization whose mission is to strengthen justice by enhancing court alternative dispute resolution systems through expertise in program development, research, resources, program administration and training.

Founded on the premise that collecting and disseminating reliable information about court ADR can raise the quality of court ADR, RSI has assisted state and federal courts with the design, administration, monitoring and evaluation of mediation programs, as well as training ADR neutrals. Courts and individuals across the country call on RSI for advice and make use of CourtADR.org, RSI's Court ADR Resource Center.

With a multi-year grant from the Office of Illinois Attorney General Lisa M. Madigan, RSI has fully implemented the advice we have offered for two decades: Seek stakeholder input. Set goals. Design clear systems. Train skilled neutrals. Collect uniform data. Share information with stakeholders. Assess programs with an expert eye. Never stop working to improve court ADR programs.

For more information about RSI, see AboutRSI.org.

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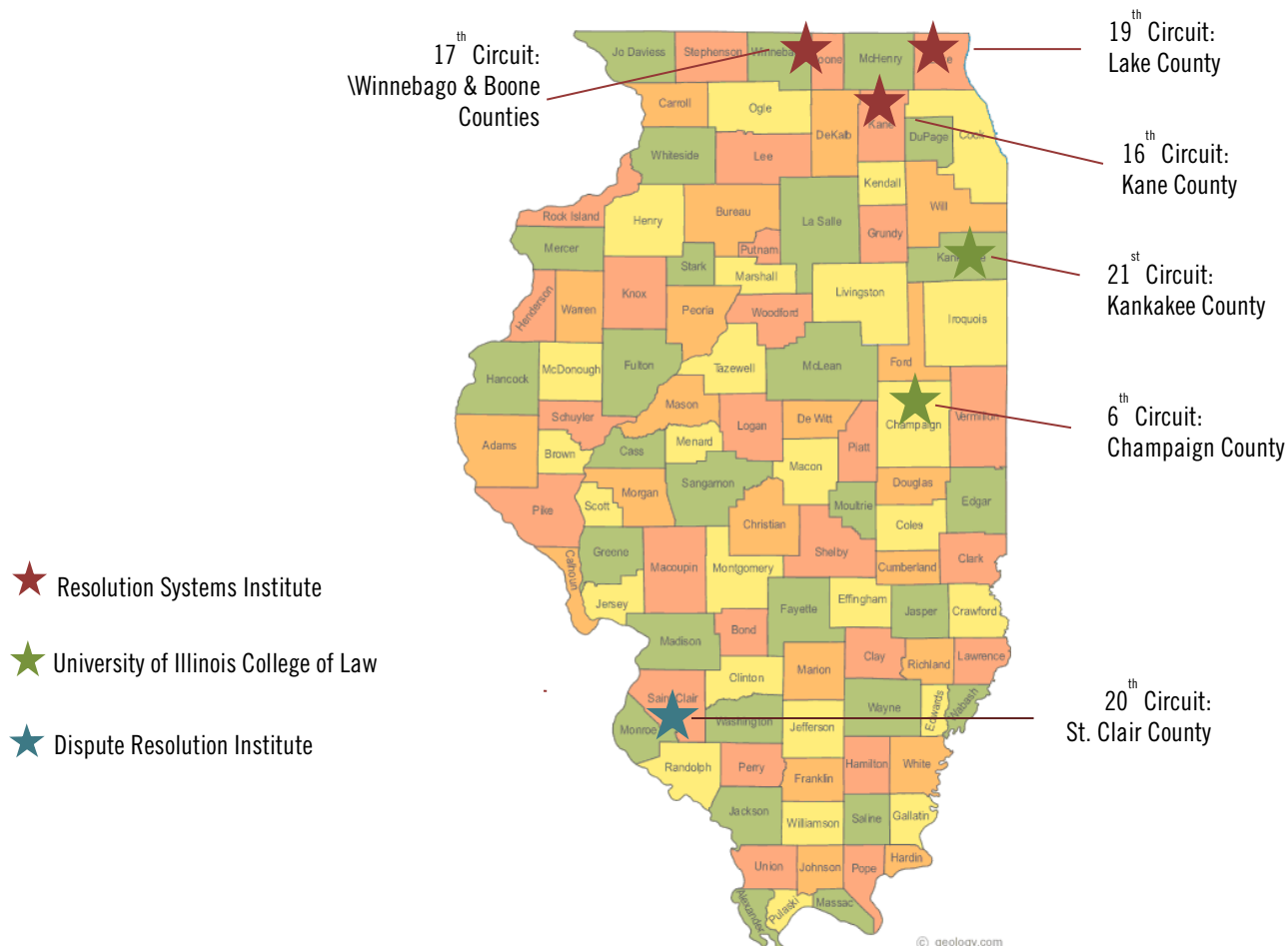
INTRODUCTION

Background

In 2013, the Office of Illinois Attorney General Lisa M. Madigan granted funds to Dispute Resolution Institute, Resolution Systems Institute and the University of Illinois College of Law Community Preservation Clinic to create and implement eleven court-referred foreclosure mediation programs in ten judicial circuits throughout the state. Six of those programs were in place as of December 31, 2014.

This evaluation is funded by the same grant. It studies the programs from their start dates through the end of 2014.

PROGRAM SITES



THE PROGRAMS

In 2013, the Illinois Attorney General used funds received from a settlement with [lenders](#) that had allegedly engaged in fraudulent loan servicing and foreclosure practices to provide grants for the

development and administration of foreclosure mediation programs. Because Illinois is a judicial foreclosure state, the funded programs were to be established in the courts and administered by three non-profit grant recipients: Dispute Resolution Institute in Carbondale, Resolution Systems Institute in Chicago¹ and the University of Illinois College of Law Community Preservation Clinic in Champaign.

Because the grants were awarded to the organizations that would administer the programs, and not to the courts themselves, the establishment of the programs depended on the receptiveness of the local courts to creating them. As of the end of 2014, of the eleven programs funded by the Attorney General, six were up and running. The court rules for two additional programs had been submitted for approval to the Administrative Office of the Illinois Courts. Programs have been rejected by two [circuits](#), and one is still considering whether to put a program in place.

In determining how to apportion the funds, the Attorney General decided to focus on those judicial circuits that had the greatest [foreclosure](#) problem and that did not yet have a foreclosure mediation program. In northern Illinois, funds were granted to Resolution Systems Institute (RSI) to help the courts design three programs, and then to administer them. All are up and running:

16th JUDICIAL CIRCUIT PROGRAM

The 16th Judicial Circuit's Residential Mortgage Foreclosure Mediation Program serves **Kane County**, a large suburban Chicago community with more than 527,000 residents and a large Latino population. It has a median household income of roughly \$70,000 and the median home value is \$223,000.² The Northern Illinois University College of Law received funds from the grant to provide legal services for this circuit.

For this program, RSI has partnered with Consumer Credit Counseling Services of Northern Illinois, Joseph Corp and Neighborhood Housing Services of the Fox Valley to provide housing counseling services, and with Northern Illinois University College of Law and Prairie State Legal Services to provide legal services.

17th JUDICIAL CIRCUIT PROGRAM

The 17th Judicial Circuit's Residential Mortgage Foreclosure Mediation Program serves **Winnebago and Boone counties**, including Rockford, Illinois' third largest city. The area is both urban and rural. The two counties have a largely non-Hispanic White population of about 340,000, combined. The median household income is \$47,000 in Winnebago

1 Because Resolution Systems Institute was in the process of obtaining its 501(c)3 status from the IRS during the grant-making process, the Northern Illinois Research Foundation received the grant, and then subcontracted with Resolution Systems Institute to conduct the majority of the work, with a portion going to the NIU Law School. RSI has since become a recognized 501(c)3 organization.

2 Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17089.html>. Last accessed on May 29, 2015.

County, with a median home value of \$123,000.³ In Boone County, the median income is almost \$61,000 and the median home value is \$159,000.⁴

For this program, RSI has partnered with HomeStart, which provides intake and housing counseling.

19TH JUDICIAL CIRCUIT PROGRAM

The 19th Judicial Circuit's Residential Real Estate Mortgage Foreclosure Mediation Program serves **Lake County**, a large suburban Chicago community with just over 700,000 residents and a large Latino population. Although the median household income in the county is \$77,500 and the median home value is \$255,000, the county is economically diverse with pockets of poverty.⁵

For this program, RSI has partnered with Affordable Housing Corp of Lake County and Consumer Credit Counseling Services of Northern Illinois to provide housing counseling services.

In central Illinois, funds were granted to the University of Illinois College of Law Community Preservation Clinic (U of I) to help design and administer four programs. Two are up and running:

6TH JUDICIAL CIRCUIT PROGRAM

The 6th Judicial Circuit's Residential Mortgage Foreclosure Mandatory Mediation Program for **Champaign County** serves a university town and a largely rural county with just over 200,000 residents. Its population is largely non-Hispanic White and the median household income is roughly \$46,000. The median home value is \$150,000.⁶

For this program, U of I has partnered with Navicore Solutions to provide housing counseling and Land of Lincoln Legal Assistance Foundation to provide legal services.

21ST JUDICIAL CIRCUIT PROGRAM

The 21st Judicial Circuit's Mandatory Residential Mortgage Foreclosure Mediation Program serves **Kankakee County**, a largely non-Hispanic White semi-suburban community of

3 Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17201.html>. Last accessed on May 29, 2015.

4 Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17007.html>. Last accessed on May 29, 2015.

5 Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17097.html>. Last accessed on May 29, 2015.

6 Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17019.html>. Last accessed on May 29, 2015.

112,000 residents. Its median household income is \$50,000 and the median home value is \$146,000.⁷

For this program, U of I has partnered with Foreclosure Mediation Specialists to facilitate all sessions and with Community Service Council of Northern Will County⁸ and the Institute for Consumer Credit Education to provide housing counseling services.

In southern Illinois, the Attorney General granted funds to Dispute Resolution Institute (DRI) to work with the courts in three circuits. Only one program is operating:

20th JUDICIAL CIRCUIT PROGRAM

The 20th Judicial Circuit Foreclosure Mediation Program serves **St. Clair County**, a suburban St. Louis community of about 260,000 with a significant Black/African-American population. The median household income is roughly \$50,000, and the median home value is about \$124,000.⁹

For this program, DRI has partnered with the Urban League of Metropolitan St. Louis to provide housing counseling services and with Land of Lincoln Legal Assistance Foundation to provide legal services. Beyond Housing has also been actively providing housing counseling to homeowners participating in the program.

| | Administrator | Program Start Date |
|---------------------------------------------|------------------------------|--------------------|
| 6th Circuit (Champaign County only) | University of Illinois | 10/1/2014 |
| 16th Circuit (Kane County) | Resolution Systems Institute | 1/2/2014 |
| 17th Circuit (Winnebago and Boone counties) | Resolution Systems Institute | 6/1/2014 |
| 19th Circuit (Lake County) | Resolution Systems Institute | 12/2/2013 |
| 20th Circuit (St. Clair County only) | Dispute Resolution Institute | 1/14/2014 |
| 21st Circuit (Kankakee County only) | University of Illinois | 10/1/2013 |

GOALS OF PROGRAMS

The programs were developed with the goal of giving homeowners the opportunity to save their home in a process that humanized them. The courts and program administrators believed that to

⁷ Population is for 2014. Income and home values are for 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17091.html>. Last accessed on May 29, 2015.

⁸ Community Service Council of Northern Will County no longer provides services to the program.

⁹ Population is for 2014. Income and house values are from 2009-2013. United States Census Bureau, <http://quickfacts.census.gov/qfd/states/17/17163.html>. Last accessed on May 29, 2015.

achieve these goals, homeowners needed to understand their situation and options for their homes, and be helped to communicate with their lender.

THIS EVALUATION

This evaluation was conducted with funds granted by the Office of the Illinois Attorney General. It is meant to be formative. That is, the goal is to present how the programs function, what is working well for them and what challenges they face so that the courts and programs can make informed changes, if needed. It is not meant to determine if one particular model is better than any other or to determine whether homeowners who participated in the programs were better served than those who did not.

In preparation for doing the evaluation, the evaluator worked with program administrators and housing counselors to develop a cloud-based case management and program monitoring system that was then used to collect the same data across all the programs. This system was used by all programs except for the 21st Circuit program. The evaluator also created post-session questionnaire forms to be completed by homeowners and, in mediation, lenders and attorneys. For more information, see [Evaluation Methodology](#). Information on how the programs functioned, as well as the perspectives on how well the programs were functioning, was obtained through semi-structured interviews with program administrators, judges and others involved in the foreclosure mediation programs.

The evaluation is the most comprehensive yet conducted for foreclosure mediation programs in the United States. It examines each program individually and then compares them, focusing on the strengths of the model each uses. The evaluation is presented in five sections:

- I. Overview of Findings: An overview of the findings from the evaluation
- II. Background of Process and Programs: Background on the foreclosure process, foreclosure mediation and the entry and service delivery models used by each program, with an examination of their differences and common traits
- III. Program Comparison: A comparison of the outcomes of the programs that also draws conclusions about the effect of the different models on participation, case outcomes and homeowner experience
- IV. Programs: An evaluation of each individual program in detail; this section of the evaluation looks at:
 1. Program Description and Procedures: Detailed descriptions of how the program works, as described by administrators and those who provide services; this includes what homeowners do to enter the program, how services are provided and how cases progress through the program

2. Judge and Program Administration Perspectives: Perspectives on the strengths and weaknesses of the programs from judges, program administrators and others involved in the programs
3. Program Characteristics: This includes program size and the characteristics of participating cases
4. Program Performance: An evaluation of performance indicators, including program participation, case outcomes, time spent in the program, and the experience of the homeowners, lender representatives and attorneys in the program
5. Participant Characteristics: The demographics of homeowner participants

V. Discussion and Recommendations

The information and data for the evaluation were gathered for the time between the launch of each program and December 31, 2014. Thus, for four of the programs, there is a year or more of data; while the 17th Circuit program's data cover seven months and the 6th Circuit program's data cover only three months.

I. OVERVIEW OF FINDINGS

Across the board, the programs are successfully fulfilling the grant's goal of offering [homeowners](#) the opportunity to save their home. Each program is also providing a process that helps homeowners to understand what their situation is and what their options are for their home. They are helping homeowners to do what they need to do in order to have their [lender](#) review their financial information, and the programs are facilitating communication between the homeowners and their lender so that they might come to an agreement that allows the homeowners to keep their home or to [exit it gracefully](#). The programs are also fulfilling the courts' goal of changing the homeowners' experience with the [foreclosure](#) process to one in which they have some control and are treated fairly and with respect. They are doing all of this while moving the cases through the programs, on average, in about three months.

Though each program is providing these services, they are doing so to a different degree. Some bring more homeowners into the program, thus giving more of them the opportunity to save their home. Some provide homeowners with more services, helping them to more successfully navigate the [document exchange](#) process. Some seem to provide homeowners with a more satisfactory experience.

Main Findings

PROGRAM PERFORMANCE

Program impact: Programs are helping between 11% and 68% of eligible homeowners

On the high end, the 6th and 21st Circuit programs each helped more than 60% of homeowners, while on the low end, the 19th and 20th Circuit programs each helped fewer than 20%.

Saving homes: Homeowners who complete the programs are likely to keep their homes

In the 17th and 19th circuits, 76% and 58% of homeowners who complete the respective programs reach an agreement to keep their home. Roughly half do in the 16th and 20th Circuit programs.

Respectful treatment: Almost all homeowners report being treated fairly and with respect

In each program, most homeowners felt they were being respected and had the chance to talk and be heard. Their comments spoke of their appreciation for those helping them and the process itself, which helped them understand their situation and how to proceed better, and allowed them to meet face-to-face with their lender. Almost all said they were satisfied with the process and the outcome.

Understanding: Homeowners leave their pre-mediation session with greater understanding

In each of the programs, homeowners indicated in post-session questionnaires that they left their pre-mediation session with a better understanding of their options for their home and how to work with their lender. In the 17th and 19th Circuit programs, more than 70% left with a much better understanding.

Limiting time in mediation: Cases move through the mediation process quickly

The cases average taking between 63 and 102 days to move from first entering the program to either reaching agreement or ending without an agreement. There is no evidence that the mediation programs delayed the processing of foreclosure cases through the legal system.

FACTORS THAT AFFECT PERFORMANCE**Higher participation leads to higher impact**

In the 21st Circuit program, 68% of homeowners participated in the program, and 14% of all homeowners facing foreclosure in the program county were able to save their homes. The other programs have participation rates of 7% to 25% and between 2% and 6% of all eligible homeowners keep their homes. The 21st Circuit program's high rate of home [retention](#) for all eligible homeowners facing foreclosure relative to the other programs is due to its very high participation rate and not to proportionately better outcomes for homeowners who participate in the program. If only participating homeowners are considered, the 21st Circuit program has the lowest percentage of homeowners who keep their homes.

High barriers discourage participation

Programs with required steps to participate that are difficult to complete have the lowest participation rates. Those with the easiest steps – the [one-step entry](#) programs – have the highest participation rates.

One-on-one orientation and assistance with entry encourage participation

Programs that orient homeowners to the program at their first point of contact have higher rates of homeowners who complete the entry process. In the 16th Circuit program, almost 90% of homeowners who contact the program coordinator for an initial conference enter the program. In the 17th Circuit program, homeowners receive assistance completing their application for the program, leading to a higher rate of participation than in the 20th Circuit program, where many homeowners do not have contact with the program until after they complete the steps to enter.

Homeowners who receive services other than mediation are more likely to retain their homes

In the 20th Circuit program, those homeowners who received assistance from legal services were more likely to retain their homes than those who did not. While not statistically significant, this was true as well for homeowners who received housing counseling in that program. In addition, in the 17th and 19th Circuit programs, where all homeowners receive assistance from housing counseling, the level of understanding they gained and their satisfaction with the service were extremely high.

Homeowners benefit from a second opportunity to participate

In the 20th Circuit program, more than half of participating homeowners are referred to mediation by the judge at the default judgment hearing. Those homeowners are, in essence being, offered a

second chance to enter the mediation program. They also are at least as likely as those who enter after receiving their notification of mediation to obtain a loan modification.

II. BACKGROUND OF PROCESS AND PROGRAMS

Foreclosure Mediation Process

The details of the process vary from program to program, but the essentials are the same. [Homeowners](#) must have a foreclosure case filed against them in order to participate in the foreclosure mediation programs. That foreclosure case is filed by an attorney for the [lender](#) when the homeowners missed payments on a mortgage. If the homeowners enter the program, the lender must participate as long as the homeowners stay in the program. The main task of the mediation program is to determine whether the homeowners can retain the home. [Retention](#) is typically accomplished by modifying the terms of the loan and establishing a new mortgage. This differs from the goal of litigation, which is to determine whether the lender is permitted to take possession of the home. In the cases that go to mediation, there is usually no question as to whether the homeowners are in arrears. The question is whether there is a way to modify the loan terms so that they are acceptable to the lender and the homeowners. If there is not a way for the homeowners to retain the home, the parties can discuss [graceful exit](#) options, such as a [deed in lieu](#) of foreclosure or financial assistance with a move out of the home.

The first step after entering the program is for the homeowners to put together a [loan modification packet](#) and submit it to their lender. This packet contains the financial information and documents that the lender needs to make a decision about whether to offer a loan modification to the homeowners. Once the homeowners submit the packet, the lender determines whether any further documents are needed and requests that the homeowners submit them, if necessary. Once the lender has all the documents, it considers possible modifications, which can depend on whether the lender participates in [HAMP](#) (the large lenders all do), whether the homeowners qualify under a special program (such as VA or FHA), and what internal modification programs are applicable. Then the lender is ready to communicate its decision to the homeowners. Generally, this is when mediation takes place, although in two programs, this communication occurs in pre-mediation.

The programs work most intensely with the homeowners and lender prior to mediation, with the facilitation of the document exchange. Sometimes the document exchange continues into mediation, but that is not as effective as completing it prior to mediation. This need for intensive work prior to mediation is one way in which foreclosure mediation programs differ from other types of mediation. Another difference is the constraints placed on what agreement the parties can reach. Unlike mediation for other case types, in which the parties can develop a wide range of terms on which they can agree, the possible outcomes of foreclosure mediation are limited by the homeowners' financial situation and the investor guidelines placed on the lender regarding what it can offer the homeowners.

Purpose of Foreclosure Mediation

While each of the [circuits](#) had subtly different rationales for creating their programs, the judges in each felt they needed to provide homeowners with the opportunity to save their homes, an opportunity that they did not appear to have with the normal process. They saw a large number of unrepresented homeowners coming before the bench saying they had been trying to get a loan modification, but could not communicate effectively with their lender. The judges whom the evaluator interviewed shared similar stories of homeowner struggles. Commonly, lenders did not have a single point of contact with whom homeowners could speak,¹⁰ the information given to homeowners by different lender representatives was contradictory and inconsistent, lenders were losing homeowner documents, and courts thought the process was taking too long.

WHY MEDIATION?

The courts wanted to give motivated homeowners who were able to save their homes the opportunity to do so and to provide them with a process that treated them in a dignified way. The courts saw mediation as the best method for doing this.

Saving Homes

Foreclosure mediation programs give homeowners the opportunity to save their homes by helping them to submit their packet, facilitating the document exchange process, working to ensure that lenders are responsive in a timely manner, and conducting mediations at which homeowners and lenders can speak directly with one another, with the help of a mediator, and reach informed conclusions about what will happen to the homes.

Treating Homeowners with Respect

The process in each program is geared toward helping homeowners. Additionally, housing counseling and mediation culture focus on respectful treatment of clients and parties.

HOW PROGRAMS ARE STRUCTURED TO ACHIEVE THESE GOALS

To accomplish these goals, the courts saw the need for the programs to:

- Help homeowners understand the process and their situation more clearly
- Facilitate communication between the homeowners and lender
- Keep homeowners and lenders accountable
- Limit the amount of time it takes to complete the foreclosure mediation process

Improve Understanding

Each program provides a forum for homeowners to learn about the [foreclosure](#) process, the mediation program and what their options for [avoiding foreclosure are](#). This forum is either a group orientation, an orientation by phone, a housing counseling session, a pre-mediation session with a facilitator or a combination of these services.

¹⁰ The National Mortgage Settlement with the five largest lenders requires that the lenders supply a single point of contact to homeowners as well. See: <http://www.nationalmortgagesettlement.com/about>. Last accessed on June 1, 2015.

Facilitate Communication

The programs facilitate communication between the homeowners and lender from the point at which the homeowners submit the loan modification packet until the homeowners and lender complete negotiations. Once the homeowners submit the packet, the program coordinator or mediator tracks the progress of the review, ensures that the lenders communicate what further documents are needed, and makes sure that the homeowners supply that information. The housing counselor continues to help the homeowners gather the necessary documents and submit them to the lender. Once the document exchange process has ended, communication shifts to mediation or facilitated negotiation.

Keep Homeowners and Lenders Accountable

Each court instituted rules that hold homeowners and lenders accountable. Deadlines were put in place to ensure that homeowners and lenders conduct the document exchange in a timely manner. The lenders must also report to the program that they have received the packet and list what additional documents are needed from the homeowners in order to complete the review of the packet. In most programs, the facilitation of the document exchange process includes interim agreements in which the homeowners agree to provide documents by a specific date and the lender agrees to review the homeowners' documents by a specific date.

Limit the Amount of Time Spent in the Program

The courts were concerned that the foreclosure mediation process should not overly delay the court process. Therefore, by court rule, each of the programs has deadlines or a maximum number of sessions that can take place at each phase of the program. These deadlines are set to ensure that the cases do not languish in the programs.

WHO THE PROGRAMS HELP

Judges and program staff see the programs as helping all involved: homeowners, lenders, the court and the community.

Even if homeowners do not come to an agreement with their lenders to retain their homes, they have access to experts who can help them understand their situation better and explain how to navigate the foreclosure process. They also have the opportunity to hear from individuals representing their lenders about how they are making decisions. The judges also believe the programs help homeowners by humanizing the process, making it more respectful and less degrading. Finally, homeowners have the chance to avoid foreclosure, whether that means saving their home or coming to an agreement to leave it in such a way that does not result in a foreclosure on their credit report.

By helping homeowners, the foreclosure mediation program moves cases from the traditional court process and still keeps lenders and homeowners accountable. Additionally, unrepresented homeowners tend to slow down the court call because they do not know what they need to do or how to do it properly. By orienting the homeowner to the process, and helping them to complete paperwork, the programs are making the court foreclosure process more efficient.

Lenders also benefit because the process is more efficient, and they can remove foreclosures from their books. They further benefit from the help homeowners receive with the document exchange. If homeowners provide the proper documents, lenders spend less time trying to get the documents they need in order to properly review loan modification packets.

The community is helped because the programs keep families in their homes or move the process forward so the homes can be sold more quickly, leading to fewer empty homes. Additionally, property values in the community are better maintained if there are fewer foreclosures.¹¹

Program Models

The Illinois courts have a semi-autonomous structure, meaning that the individual circuits have latitude in how they design and administer their programs, but their local court rules for mediation programs must comport with Illinois Supreme Court Rule 99.1 and be approved by the Administrative Office of the Illinois Courts. This structure has resulted in the circuits adopting different foreclosure mediation service delivery models. The diversity of models makes collecting data challenging, but also provides a unique opportunity to compare the strengths and weaknesses of each model.

Although each of the six programs employs a different service delivery model, all have a two-part process:

1. A pre-mediation phase that focuses on helping homeowners submit a loan modification packet and facilitating the exchange of documents necessary for the lender to complete its review of the packet.
2. A mediation phase in which a neutral helps the lender and the homeowners to discuss, and possibly agree to, options that allow the homeowners to avoid foreclosure. (As will be seen below, in two programs, this phase is not considered to be mediation, although the process is similar. They instead see this phase as facilitated negotiation.)

The two-step process is meant to provide the most effective means for helping homeowners and lenders to successfully conclude their case. The first step helps homeowners understand what they need to do and what is possible, then works with them until the lender reviews the packet. The second is designed to make communication between lenders and homeowners most effective.

¹¹ According to a review of studies by W. Scott Frame in "[Estimating the Effect of Mortgage Foreclosures on Nearby Property Values: A Critical Review of the Literature](#)," ECONOMIC REVIEW, Volume 95, Number 3 (2010), foreclosures do affect nearby property values, but the effect drops quickly with distance from the foreclosure.

PROGRAM MODELS

| | 6 th | 16 th | 17 th | 19 th | 20 th | 21 st |
|----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch Date | 10/1/2014 | 1/2/2014 | 6/1/2014 | 12/1/2013 | 1/14/2014 | 10/1/2013 |
| Type | One-step entry | Hybrid | Multi-step entry | Multi-step entry | Multi-step entry | One-step entry |
| Entry process | Attend pre-mediation session | HO* completes initial conference with PC* and files court appearance | Submit application online or in HC* office, schedule HC session | Attend informational session, schedule HC session | File mediation request and financial questionnaire with court clerk | Attend pre-mediation session |
| Intake | By PC at first pre-mediation session | By PC before HO* submits financial documents and checklist | By HC agency after application submitted | By HC agency after informational session | By program staff after HO submits financial questionnaire | By PC at first pre-mediation session |
| Pre-mediation | Up to 3 formal pre-mediation sessions with either HC or legal services atty to complete packet; status sessions with mediator for document exchange | 1-2 HC sessions (optional) to complete packet, possible legal assistance from Northern Illinois University College of Law clinic | 1-2 HC sessions to determine viability for retention option & complete packet, possible status session with PC to facilitate doc exchange | 1-2 HC sessions to complete packet | Up to 3 pre-mediation sessions with PC to complete packet and reach agreement on foreclosure avoidance option | Up to 3 pre-mediation sessions with mediator (also meet with HC or legal services) to complete packet; status sessions with mediator for doc exchange |
| Mediation | Unlimited mediation sessions allowed by rule | Unlimited sessions allowed by rule; generally 1-2 in practice | Unlimited mediation sessions allowed by rule; generally 2 in practice | Unlimited mediation sessions allowed by rule; 1-2 in practice; 60 day completion deadline | Unlimited mediation sessions allowed by rule | Unlimited mediation sessions allowed by rule |
| Remain in program during TPP* (temp loan modification)? | Yes | Yes, if HO requests & TPP agreement reached before mediation session | No, unless parties and coordinator agree | No | Yes | Yes |
| Timing of foreclosure stay | Date of service of process until return to court; stays remains until end of TPP | Date of service of process until 28 days after case leaves program; remains until end of TPP | Date HO calls HC to schedule session until return to court; stay remains until end of TPP | Date of service of process until case leaves program | Date mediation request filed until case exits program; cases stay in program until end of TPP | Date of service of process until return to court; stay remains until end of TPP |
| HO Cost | None | \$167 court appearance fee; may be waived | None | None | None | None |
| Lender add'l filing fee | \$75 | \$50 | \$65 | \$125 | \$100 | \$150 |
| Mediator payment | \$200/case | \$100 for first mediation session, \$50 for second; capped at \$150 | \$250/case | \$250/case | \$250/case | Mediation provider paid \$150 for every eligible case filed |

*HC = housing counseling HO = homeowner PC = program coordinator TPP = trial period plan

MAJOR MODEL DIFFERENCES

Although the courts each implemented a two-step process, they did so in different ways. The programs differ in how homeowners are told of the program, what they need to do to enter the program, whether they must meet certain criteria to continue in the program, how pre-mediation is structured and how document exchange is facilitated.

Program Type

The six programs are one of three types: One-Step Entry, Multi-Step Entry and Hybrid. There are two differences among them: the message they give to homeowners in the notification of mediation that accompanies their [summons](#) and the number of steps required to enter, or participate in, the program. All of them require that the lender participate as long as the homeowners are in the program.

- One-Step Entry:¹² The 6th and 21st Circuit programs require the lender to schedule a pre-mediation session before filing the foreclosure. The homeowners are then instructed that they *must* appear for the scheduled session date, as they would be for any court hearing. Once they appear, they have entered the program.
- Multi-Step Entry: The 17th, 19th and 20th Circuit programs tell the homeowners that they have the opportunity to participate in mediation. The notification of mediation also includes the steps they need to take in order to do so.
- Hybrid: The 16th Circuit program instructs homeowners in their notification of mediation that they *must* contact the program coordinator for an initial conference. It also tells them what else they have to do in order to participate.

Participation Requirements

The programs require homeowners to take different initial steps in order to enter the programs.

- Appear for a session: The 6th and 21st Circuit programs simply require the homeowners to show up for the scheduled pre-mediation session in order to participate.
- File a court appearance: The 16th Circuit program requires homeowners to file a [court appearance](#) before participating in the program, as well as contact the program coordinator.
- Complete a questionnaire: The 17th and 20th Circuit programs require that the homeowners complete a detailed financial questionnaire within a required timeframe in order to participate. The difference between the two models is that the 17th requires the homeowners to complete an online application, while the 20th requires the homeowners to complete a paper questionnaire and file it with the Circuit Clerk along with a request to mediate.

¹² These programs call themselves mandatory; however, they are voluntary because homeowners can decide not to participate without suffering any negative consequences for that decision.

- Attend informational session: The 19th Circuit program requires the homeowners to attend a group informational session and then call the housing counseling agency to schedule a pre-mediation session.

Whether Homeowners Must Meet Specific Criteria to Continue in the Program

Most of the programs allow all cases to move forward regardless of whether homeowners meet the criteria for (or have a viable possibility of) a loan modification. Homeowners are counseled about their possibility of receiving one, but can move forward with their packet submission even if [relinquishment](#) may be the only viable outcome. The 17th Circuit and the 21st Circuit programs, however, review homeowners' financial information at the first session to determine whether they will qualify for a loan modification. In the 17th, if homeowners do not have a viable possibility of receiving a loan modification, they are removed from the program and offered housing counseling or other service outside of the mediation program framework. In the 21st, if the homeowners do not meet the criteria for a loan modification, they discuss the possibility of a relinquishment option with the mediator and the lender attorney and decide whether they want to move forward. If they do decide to pursue a relinquishment option, the homeowners often are not required to submit a loan modification packet. The mediator then helps them work out the terms of relinquishment with the lender attorney.

Structure of Pre-Mediation Sessions

The purpose of the pre-mediation sessions is the same for all programs: to facilitate the exchange of documents between the homeowners and lender so that the lender has all the information necessary to make a decision about whether to offer a loan modification. How the pre-mediation sessions are structured and who attends them is very different:

- Mandatory pre-mediation session by housing counselor: In the 6th,¹³ 17th and 19th Circuit programs, the homeowners are required to attend sessions with a housing counselor. The sessions are conducted one-on-one, with only the housing counselor and homeowners present. The purpose of these sessions is to help the homeowners submit their loan modification packet. The 17th differs in that the housing counselor also decides whether the homeowners will continue in the program.
- Voluntary pre-mediation session by housing counselor: The 16th Circuit program offers homeowners the opportunity to meet with housing counselors. Those who decide to attend housing counseling get assistance in submitting their loan modification packet.
- Mandatory pre-mediation session by program coordinator: In the 20th Circuit program, homeowners, lenders (by phone) and lender attorneys must attend sessions facilitated by the

¹³ In the 6th Circuit program, the homeowners do not have to work with a housing counselor if they work with a legal services attorney.

program coordinator. Housing counselors may also attend if they are working with the homeowners.

- Mandatory pre-mediation session by mediator: In the 21st Circuit program, the homeowners and lender attorneys attend sessions that are facilitated by a mediator. Housing counselors are available for consultation and to help homeowners complete their packet.

How Document Exchange Is Facilitated

The term document exchange is used to describe the period between when the homeowners first submit a loan modification packet and the lender's review of that packet. During that time, the lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become "stale" and updated versions must be submitted.

The programs are divided as to how they ensure document exchange process moves forward in a timely manner. The 6th, 20th and 21st Circuit programs have formal sessions to check on the status of the document exchange and set deadlines for next steps. These are meant to keep both parties accountable. The 16th, 17th and 19th Circuit programs have deadlines by which the document exchange process must be completed. Additionally, the 16th requires that the lender file a checklist that confirms the packet has been reviewed and details what documents are needed from the homeowners. In all three circuits, the process continues to be facilitated by housing counselors. The program coordinator in the 17th has started conducting pre-mediation sessions by phone to facilitate the document exchange, when needed.

Whether the Case Remains in the Program During the Temporary Loan Modification Period

Most agreements reached in the mediation programs are for temporary loan modifications, referred to as trial period plans (TPPs). This trial period for a loan modification is generally scheduled to last three months. At the end of the TPP, the lender must offer to convert the TPP to a permanent loan modification if the homeowner has made all payments on time.¹⁴

The programs differ in whether or not they retain cases in the mediation program to monitor the TPP and conversion process. Some programs allow the case to remain in the program in order to facilitate the loan's conversion to a permanent loan modification or to help the homeowners negotiate another option if they cannot fulfill the temporary modification payments. In other programs, cases are removed from the program once a temporary modification plan agreement is reached. In the 6th, 20th and 21st Circuit programs, the case stays in the program during the TPP. In the 16th Circuit program, if the TPP is agreed to prior to mediation, the case stays in the program for a final mediation at the end of the TPP. If it is agreed to in mediation, the case is terminated from the program; if the homeowners have worked with a housing counselor, the counselor follows up to be sure they are making their payments. In the 17th and 19th Circuit programs, cases are terminated

¹⁴ HAMP, HUD and VA guidelines all require that this be included in the letter sent to the homeowner informing them the have been approved for a temporary loan modification.

from the program when the parties agree to the TPP, but housing counselors continue to follow-up with homeowners to ensure they are making timely payments.

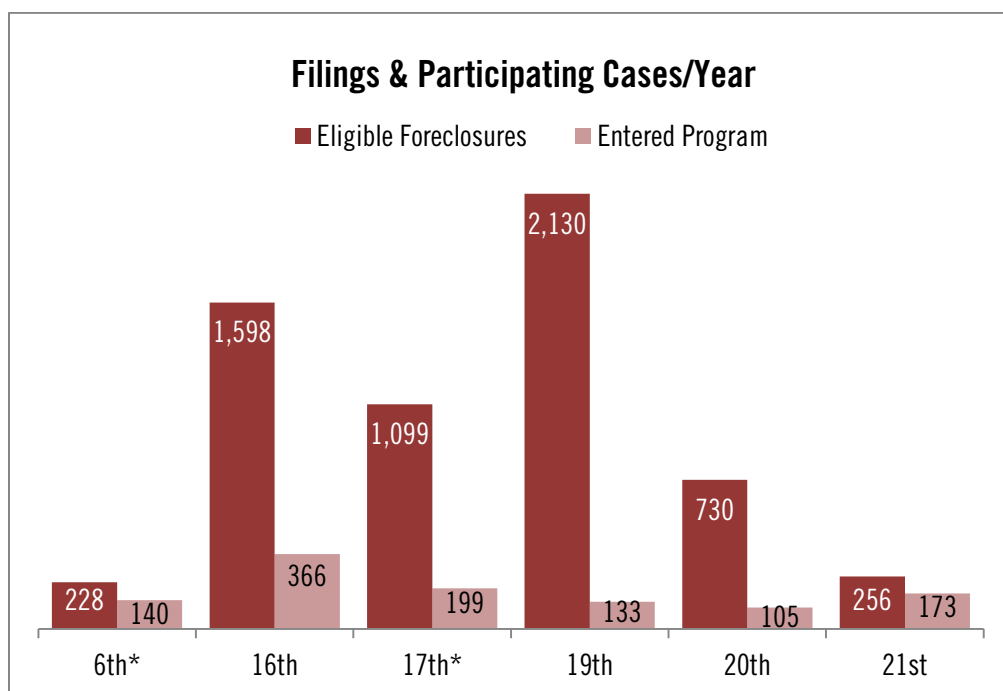
III. PROGRAM COMPARISON

Overview

As will be seen below, the programs each have their strengths and weaknesses. There is no single, perfect model for all situations. The 6th and 21st Circuit programs excel at bringing [homeowners](#) into the program. The 16th Circuit program is the best at encouraging homeowners who contact the program to participate. The 20th Circuit program has the highest percentage of homeowners complete the program, and therefore has the highest [retention](#) rate for participating homeowners. The 17th and 19th Circuit programs excel at obtaining agreements for homeowners who complete the program. They also provide an enhanced experience through mandatory housing counseling.

Program Size

The counties covered by the programs vary widely in the number of residential foreclosure cases filed per year. On the low end, Champaign County in the 6th Circuit has an estimated 228 total residential foreclosure filings per year, and on the high end, Lake County (the 19th Circuit) had 2,130 filings in 2014.



*Because these programs were not running for a full year at the time of the evaluation, the number of cases is estimated from the number of actual cases filed and entered during the time the programs were operating.

The size of the program (defined as number of participating homeowners) did not correlate with the number of foreclosure filings. With 366 participants, the 16th Circuit program exceeded the next highest program in size by 84%, but had only 45% more [foreclosures](#). Similarly, the 19th Circuit program had more than eight times as many foreclosures as the 21st Circuit program, but fewer

participating homeowners. The reason for the difference in program size is the great disparity in participation rates among the programs

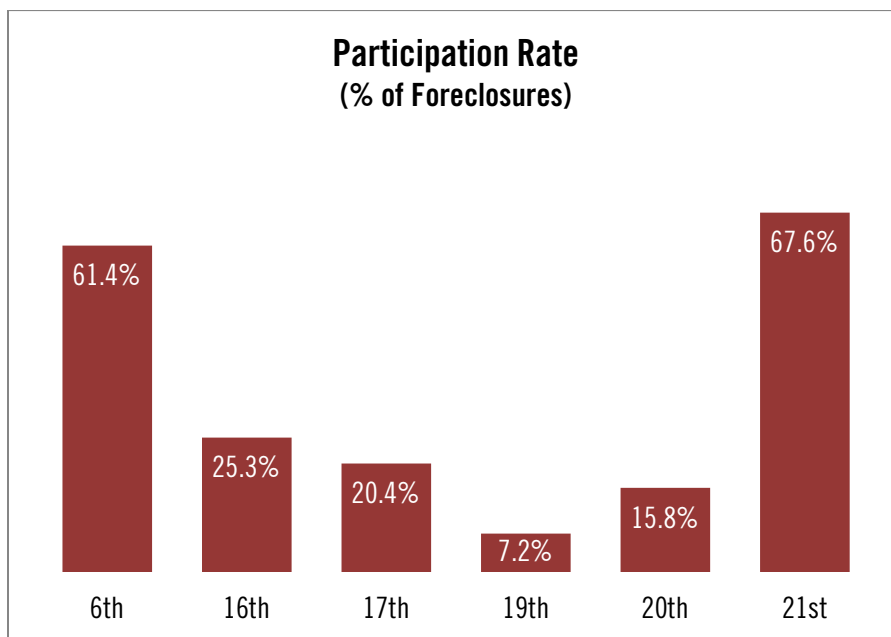
Participation Rates

Overall, the greatest difference in program functioning is found in participation rates. Homeowners are considered to be participants if they have completed all the required steps to enter a program. In the [multi-step entry programs](#) (the 17th, 19th and 20th Circuit programs), homeowners can start the process to enter the program and not complete it. Thus, these programs have two tasks in bringing homeowners into the program. The first is encouraging the homeowners to make first contact with the program. The second is getting homeowners who contact the program to enter it. In the [one-step entry programs](#) (the 6th and 21st Circuit programs), the homeowners' first contact is also their entry into the program. The 16th Circuit program is a [hybrid](#) program.

When considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

The 21st Circuit program had the highest percentage of participating homeowners

In the 21st Circuit program, 68% of eligible homeowners appeared for their pre-mediation session, establishing first contact and participation. This rate was followed closely by the other one-step entry program, the 6th Circuit program. The others lagged well behind, with 7% to 25% of eligible homeowners entering the program.



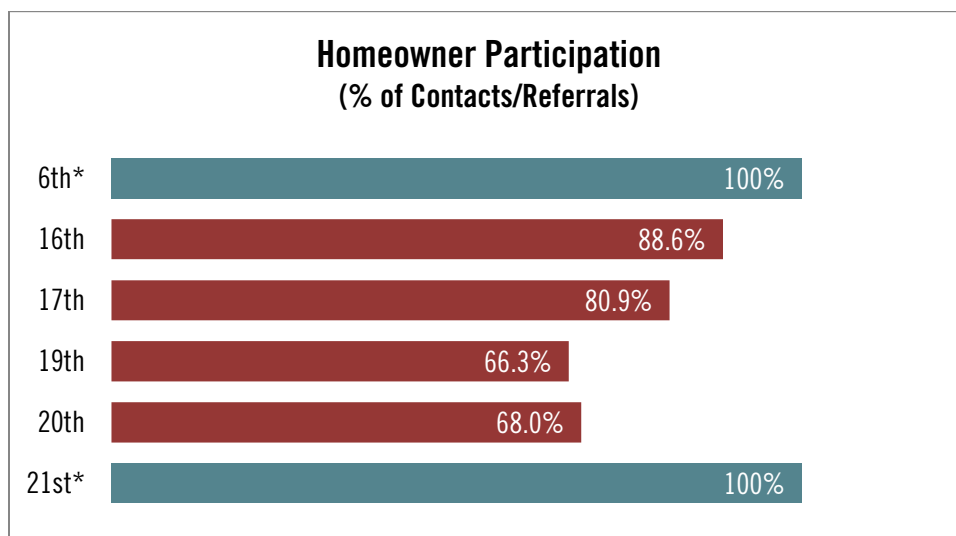
WHAT DOES THIS MEAN?

One-step entry programs have much higher participation rates than multi-step entry programs. They tell homeowners they must appear for their pre-mediation session, tell them when to appear and once they do appear, homeowners have entered the program. These all make it easier for homeowners to participate.

MOVING HOMEOWNERS FROM CONTACT TO PARTICIPATION

The 16th Circuit program had the highest percentage of homeowners who contact the program and then complete the steps to enter it

Among the programs that require homeowners to complete more than one step to participate, the 16th Circuit program was best at helping them do so. Almost 90% of homeowners who called the program coordinator for an initial conference completed the steps to participate in the program. On the low end, only 66% of homeowners in the 19th Circuit program who attended an informational session (the first step to entering the program) completed the steps to participate.



*Contact and entry happen at the same time in the 6th and 21st Circuit programs.

WHAT DOES THIS MEAN?

The 16th Circuit program model has two strengths that lead to higher rates of entry for homeowners who contact the program. The first is that the homeowners receive an orientation to the program before they enter it, at which they learn about the benefits of the program for their specific situation and get instruction on what they need to do to enter the program. The second is that the only other requirement to participate is that they file their [court appearance](#), for which they receive assistance as well.

Overall Impact

A program's overall impact can be determined by:

- The percentage of eligible homeowners helped by the program, such as learning about their options, receiving assistance with [document exchange](#), or being able to negotiate the retention of their home
- The percentage of eligible homeowners who were able to [avoid foreclosure](#) overall, but with emphasis on the percentage who were able to save their homes

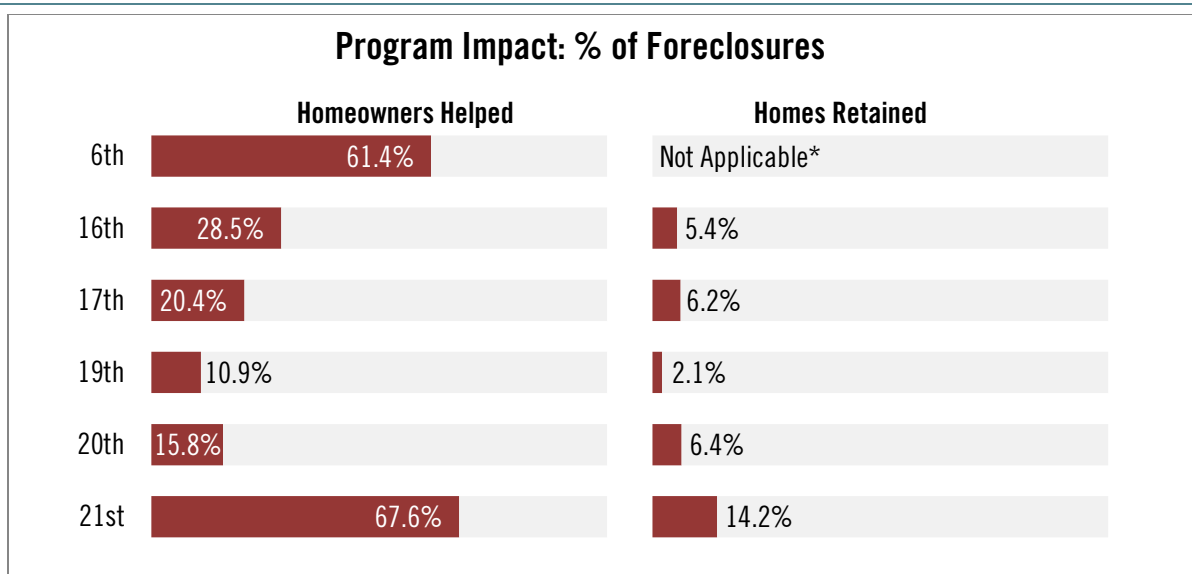
Even if participating homeowners do not save their homes, they benefit from the programs. Each program starts with education about what the homeowners' options are for their homes, what they need to complete their [loan modification packets](#) and information on foreclosure mediation. Almost all participating homeowners also feel they are treated fairly and with respect. These two benefits were important reasons for the courts to start their programs.

Program impact is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowners may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and therefore do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or [relinquishment](#).

HOMEOWNERS HELPED AND HOMES SAVED

Higher participation leads to higher impact

As the chart below indicates, the percentage of eligible homeowners in foreclosure who have been helped in some way by the programs ranges from 11% in the 19th Circuit program to 68% in the 21st Circuit program. The 21st Circuit program also has by far the highest rate of homes saved, at 14% of all eligible foreclosures.



* No cases had been completed by the end of the evaluation period.

WHAT DOES THIS MEAN?

In the 21st Circuit program, 68% of homeowners participated in the program, and 14% of all homeowners facing foreclosure in the program county were able to save their homes. The other programs have participation rates of 7% to 25%, and between 2% and 6% of all eligible homeowners keep their homes. The 21st Circuit program's high rate of home retention for all eligible homeowners facing foreclosure relative to the other programs is due to its very high participation rate and not to proportionately better outcomes for homeowners who participate in the program. If only participating homeowners are considered, the 21st Circuit program has the lowest percentage of homeowners who keep their homes.

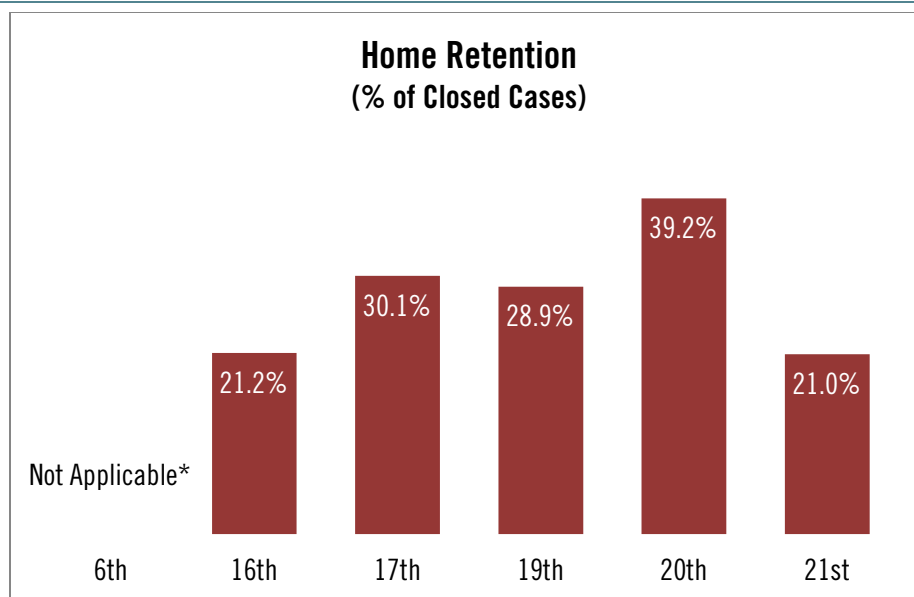
Outcomes

The homeowners who enter a program will end with one of four outcomes:

- Leave the program before completing negotiations with their [lender](#)
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

The 20th Circuit program has the highest retention rate for participating homeowners

Once homeowners entered the 20th Circuit program, they were more likely than homeowners participating in the other Attorney General-funded programs to keep their homes: 39% of homeowners participating in the 20th Circuit program kept their homes, as compared to 21% to 30% in the other programs.



*No cases had been completed by the end of the evaluation period.

WHAT DOES THIS MEAN?

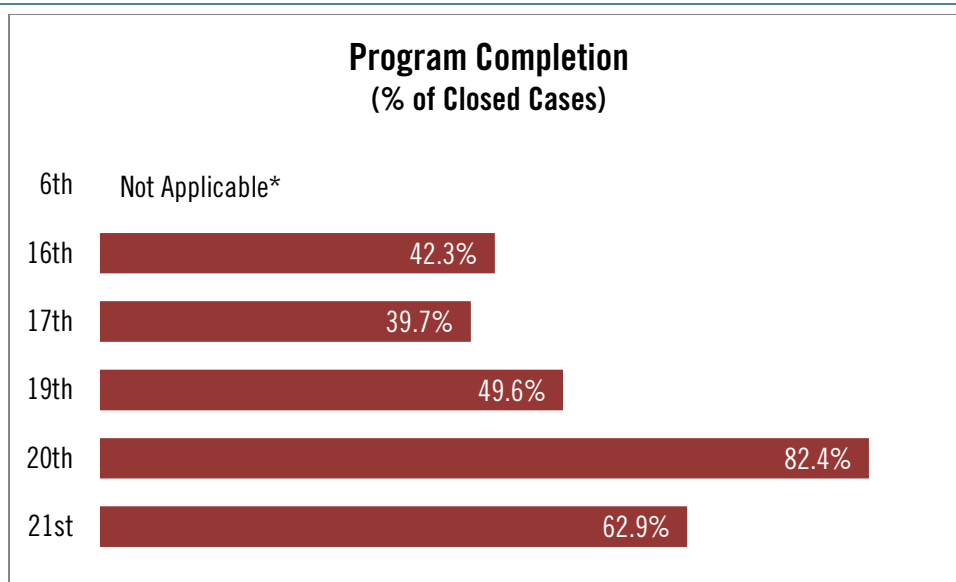
The difference in retention rates for participating homeowners between the 20th Circuit program and the other programs is largely due to the 20th Circuit program's high completion rate.

COMPLETION

In each program, homeowners complete the program if they have submitted a loan modification packet, their lender has reviewed their packet and the homeowners have an opportunity to negotiate with their lender. In a small number of cases, lender non-compliance may also cause a case to return to court prior to completing the program.

The 20th Circuit program has the highest completion rate for participating homeowners

All but 18% of homeowners who entered the 20th Circuit program were able to negotiate with their lenders, thus completing the program. Completion rates for the other programs ranged from 40% to 63%.



* No cases had been completed by the end of the evaluation period.

WHAT DOES THIS MEAN?

Program model is one cause of the difference in completion rates between programs. On the low end, the 17th Circuit program terminates cases in which homeowners do not have a viable possibility of obtaining a loan modification. This was the cause of 46% of program non-completions in that program. On the other end, the 20th Circuit program requires that the lenders' representatives attend all sessions, even before homeowners submit their loan modification packets. This may mean that homeowners who do enter the program have a greater incentive to complete their packets and appear for pre-mediation sessions.

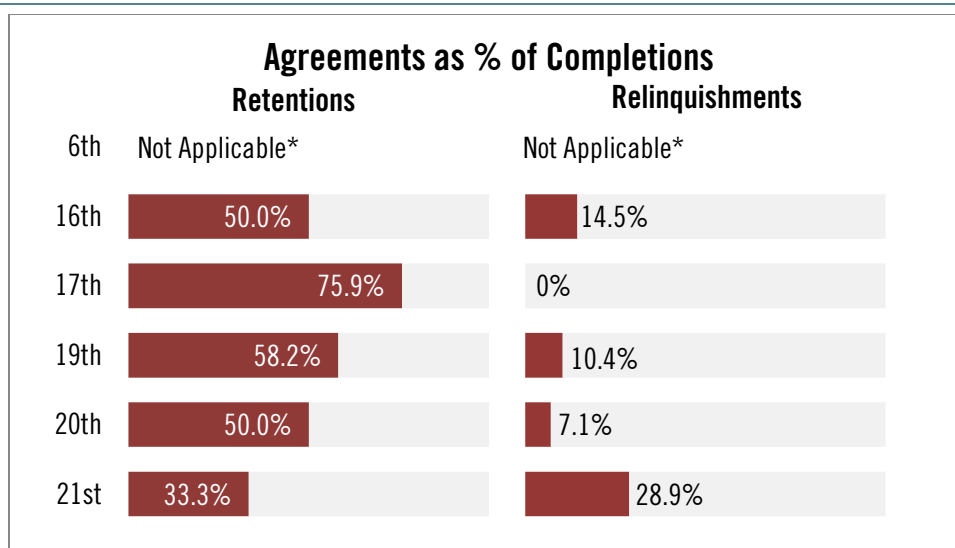
COMPLETED CASES

Participating homeowners and their lenders can reach agreement for the homeowner either to retain their home or voluntarily relinquish it.

The 17th Circuit program has the highest percentage of saved homes for homeowners who complete the program

In the 17th Circuit program, 76% of homeowners who complete the program leave with an agreement to keep their home. This compares to 33% to 58% in the other programs.

Homeowners who reach agreement, in all programs but the 21st Circuit program, are much more likely to reach an agreement that allows them to keep their homes than one that provides them a [graceful exit](#).



* No cases had completed the program by the end of the evaluation period.

WHAT DOES THIS MEAN?

The variation in retention rates is in large part a product of how the programs were designed. On the high end, the 76% retention rate in the 17th Circuit program is very much a result of that program being open only to those who would most likely qualify for a loan modification. The 21st Circuit program's low retention rate (as a percent of homeowners who completed the program) is most likely due to the opposite issue: 68% of all eligible homeowners participate, and they are all encouraged to continue through the program whether they would qualify for a loan modification or not.

Home relinquishments are much rarer than retentions in all but the 21st Circuit program, where 29% of homeowners who complete the program leave with an agreement to relinquish their home. According to one of the two mediators for the 21st Circuit program, he and the other mediator push relinquishment options when the homeowners do not meet the criteria for a loan modification. The 16th Circuit program also had a significant percentage of relinquishments. This is the only program in which a significant number of homeowners entered the program with the goal of giving up their home.

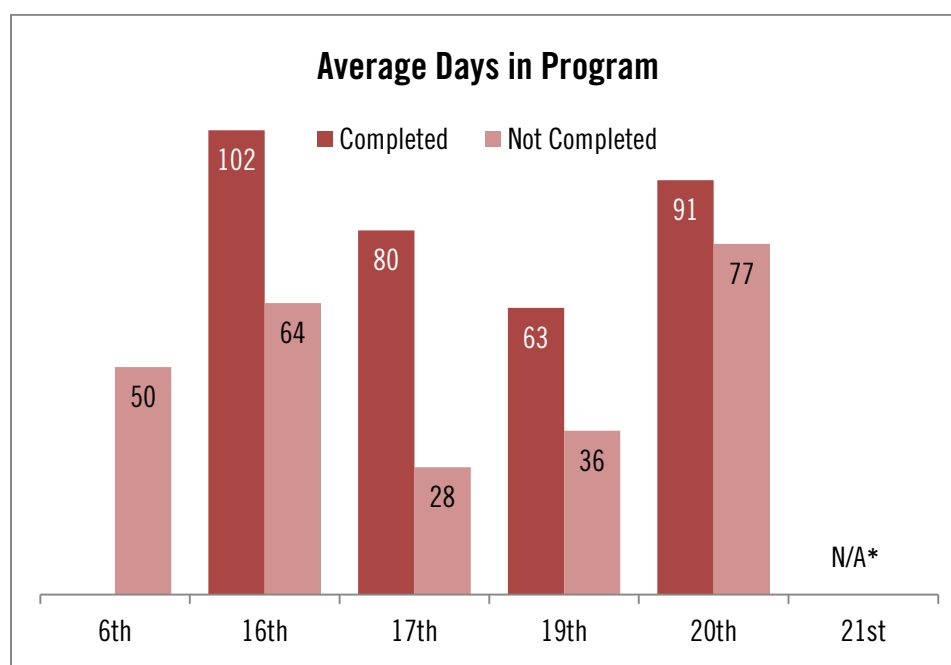
Time in the Program

In order to give homeowners the chance to work with their lenders to avoid foreclosure, each circuit places a legal stay on the case while it is in the program. Because of this, the court and plaintiff's bar were concerned that foreclosure mediation might prolong cases. All programs have therefore instituted deadlines and limitations on the mediation process, from the amount of time homeowners have to submit their loan modification packets to the number of pre-mediation sessions that are allowed.

The 19th Circuit program has the shortest average time in program

As seen in the chart below, it takes from 63 to 102 days, on average, for homeowners to complete the program after entering it, either reaching an agreement to avoid foreclosure, or not reaching agreement after the lenders review the loan modification packets.

When homeowners do not complete the program, they are returned to court, on average, between 28 and 77 days after entering the program. The lowest average is in the 17th Circuit program, where 46% of homeowners who did not complete the program were not allowed to continue after the first pre-mediation session once it was clear that they did not have a viable possibility of obtaining a loan modification.



* The 21st Circuit program did not collect time in program data.

WHAT DOES THIS MEAN?

Cases in all programs are moving through the foreclosure mediation process within the established timelines. In addition, the programs are moving cases through the process in a much shorter timeframe than some programs outside of Illinois.¹⁵

¹⁵ For example, in Connecticut, the average time in program is 484 days. See, Gloria Jean Gong and Carl Brinton, [CONNECTICUT JUDICIAL BRANCH FORECLOSURE MEDIATION PROGRAM](#) (October 2014). In Maine, the time in program averaged between 131 and 173 days. See, Laura S. Pearlman, [FORECLOSURE DIVERSION PROGRAM: REPORT TO THE JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL AFFAIRS AND THE JOINT STANDING COMMITTEE ON JUDICIARY](#), Maine Administrative Office of the Courts (February 13, 2014).

Participant Perspectives

In each program, those who participated in pre-mediation and mediation sessions completed questionnaires (Appendix C) at the end of their sessions. See “Evaluation Methodology” ([Appendix B](#)) for further details on how the questionnaires were conducted.

Procedural Justice

A main reason the courts created their programs was to provide homeowners with a process that treated them well. The judges used words like “dignity” and a “humanized process” to describe what they wanted the homeowners to experience. For this evaluation, the homeowners’ treatment in the program was measured through their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party’s experience with the justice system.¹⁶ Its presence or lack thereof has a significant impact on parties’ satisfaction with the justice system and their perception of its fairness. Research has found that the most important characteristics of procedural justice are voice (the sense that one’s voice has been heard in the process) and respect (the sense that one’s feelings, ideas, and positions have been treated with respect in the process).¹⁷

For this evaluation, voice was measured in questionnaires as the homeowners’ feeling that they were able to talk about what was most important to them and how much they felt the mediator understood what was important to them. The questionnaires also asked whether the homeowners felt they were treated with respect by the person conducting the sessions. As another measure of whether they felt they experienced procedural justice, the questionnaires asked fairness questions.

All programs are providing a process in which homeowners are treated fairly and with respect

In both the pre-mediation and mediation phases of the programs, the homeowners expressed their appreciation of how they were treated.

Pre-Mediation

In pre-mediation, the homeowners’ responses show that they had a positive experience of procedural justice, no matter how the pre-mediation phase was structured. All homeowners felt that the counselor or facilitator treated them with very much respect. All those who responded to the question of whether they were treated fairly said they were. Almost all homeowners who responded felt they were treated very fairly and with very much respect.

¹⁶ Alan E. Lind, “In the Eye of the Beholder: Tort Litigants’ Evaluations of their Experiences in the Civil Justice System,” *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

¹⁷ *Id.*

Pre-Mediation: Treated with Very Much Respect

| | |
|-----------------------|---------------|
| 6th Circuit (n = 5) | 100% |
| 16th Circuit | Not available |
| 17th Circuit (n = 63) | 100% |
| 19th Circuit (n = 91) | 100% |
| 20th Circuit (n = 29) | 100% |
| 21st Circuit (n = 21) | 100% |

Pre-Mediation: Treated Very Fairly

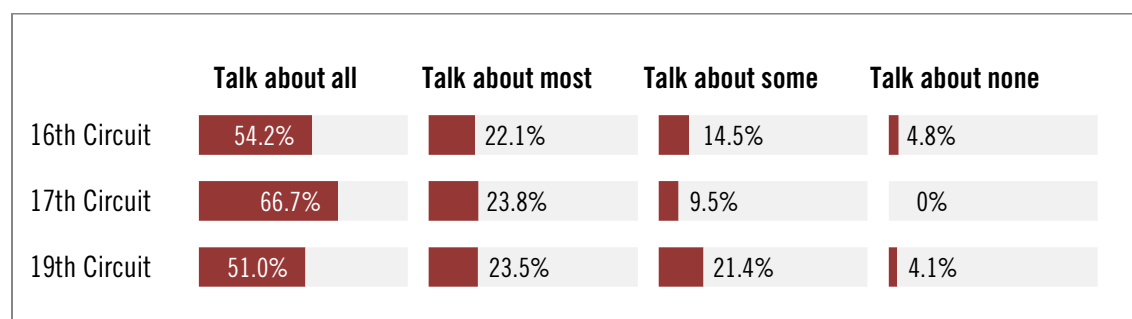
| | |
|-----------------------|---------------|
| 6th Circuit (n = 4) | 100% |
| 16th Circuit | Not available |
| 17th Circuit (n = 54) | 100% |
| 19th Circuit (n = 88) | 100% |
| 20th Circuit (n = 26) | 100% |
| 21st Circuit (n = 17) | 94% |

Mediation

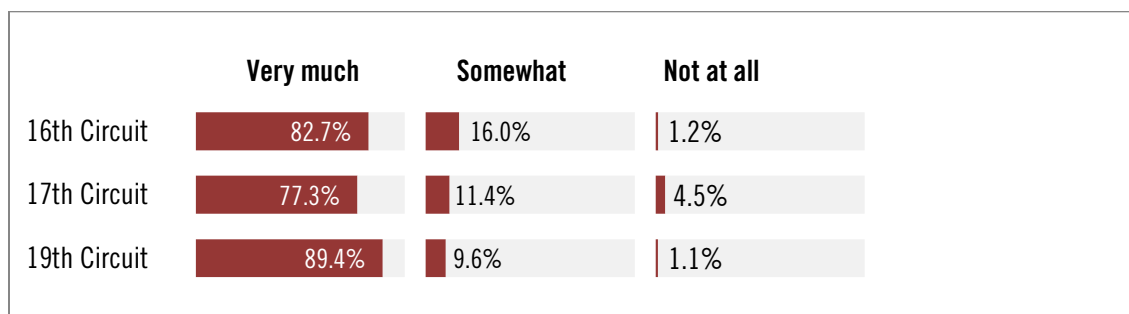
In the mediation phase, homeowners also were very positive about their experiences of procedural justice. More than 90% in each program felt they were treated very fairly and with very much respect by their mediator. Almost all felt their mediator understood them, and 75% or more felt they could talk about their issues and concerns. Although almost all felt the mediation process was at least somewhat fair, the homeowners were less likely to feel it was a very fair process than to feel they were treated very fairly.

Note: The 6th and 21st Circuit programs did not have any completed mediation session questionnaires. The 20th Circuit program only had questionnaires from three cases. Therefore, responses are presented below only for the 16th, 17th and 19th Circuit programs.

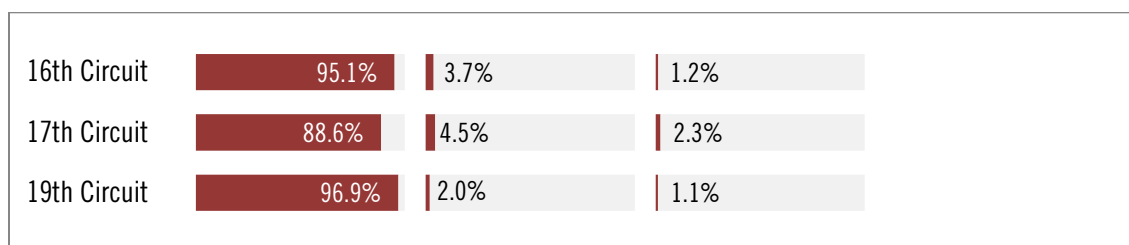
Homeowners: Were you able to talk about the issues and concerns that were most important to you?



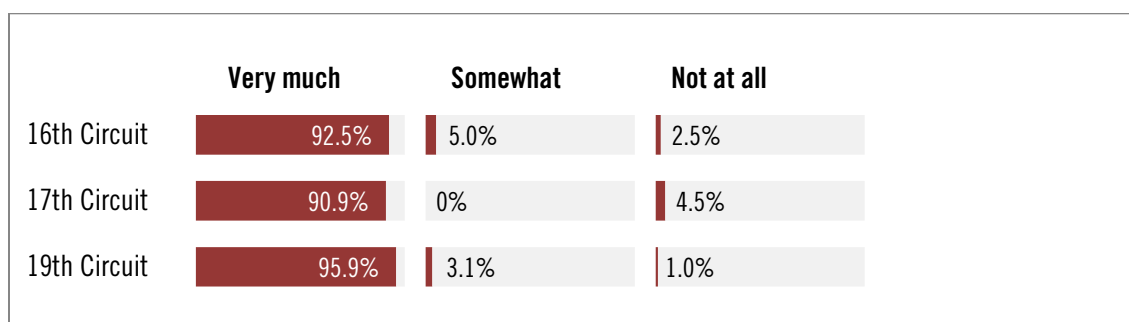
Homeowners: Did the mediator understand what was important to you?



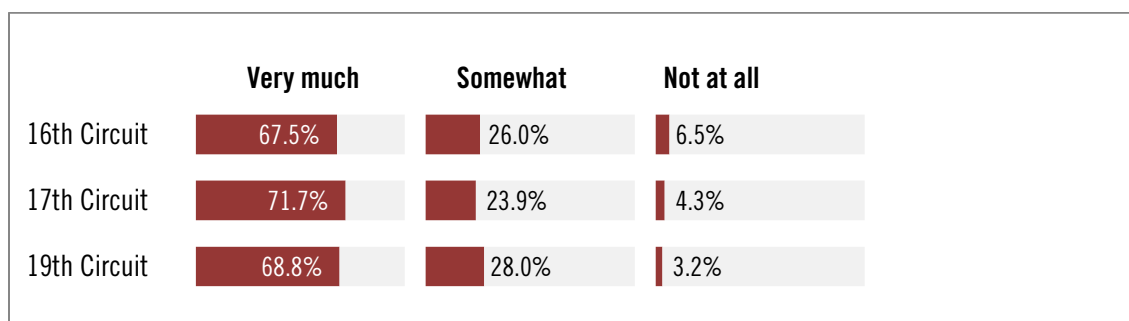
Homeowners: Did the mediator treat you with respect?



Homeowners: Did the mediator treat you fairly?



Homeowners: Was the mediation process fair?



WHAT DOES THIS MEAN?

The mediators are providing homeowners with a just process in which they are treated fairly and with respect. The importance of this to homeowners is demonstrated by their comments. Those who commented on what they liked about the mediation were most likely to mention how they were treated.

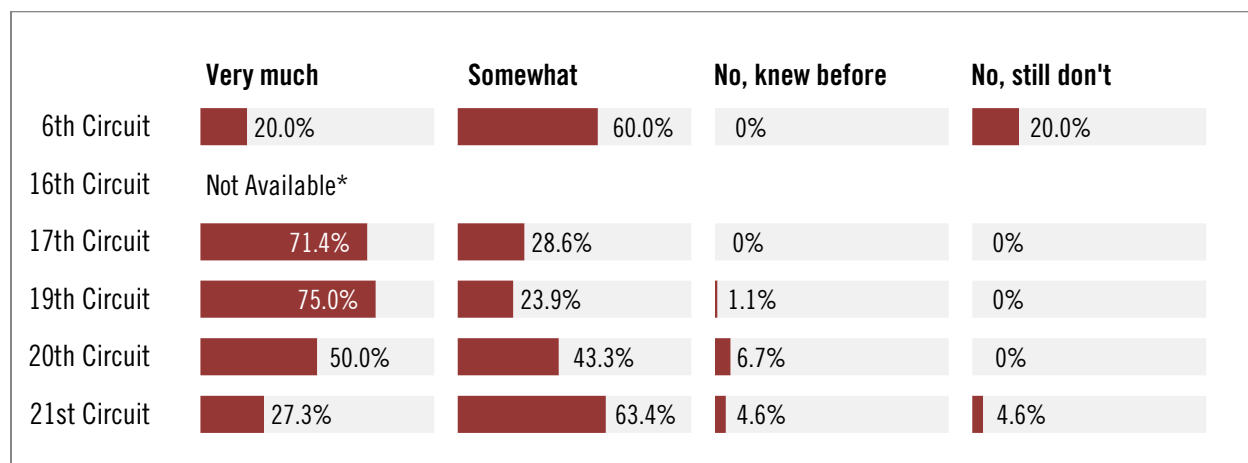
As will be seen in the analysis of responses in the individual programs, homeowners' perspective on the fairness of the process is linked to the outcome of the mediation and, particularly in the 17th and 19th Circuit programs, to the conduct of the lenders and lender attorneys.

Understanding**Housing counseling is providing homeowners with great gains in understanding**

All the programs are achieving their goal of helping homeowners to understand their situations and to be able to navigate the foreclosure process better. In all programs, the homeowners are given information on the foreclosure process, their options for their homes, and what they need to do to complete their packets as early in the process as possible. Most of the programs provide this information in the first pre-mediation session. In the 16th and 19th Circuit programs, information on the foreclosure process and the homeowners' options is provided prior to the homeowners entering the program, so homeowners who make contact with the program but decide not to participate are helped as well. This means that these programs provide the maximum number of homeowners possible with this service.

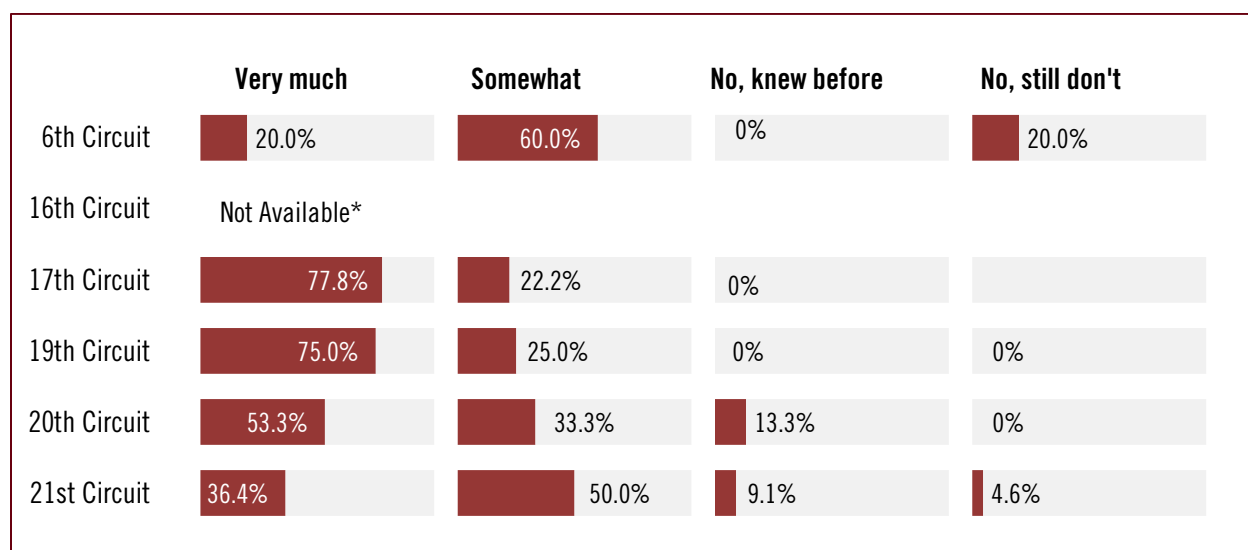
In each of the programs, almost all homeowners indicated that they gained at least some understanding of their options. However, the 17th Circuit and 19th Circuit programs are having the greatest success in helping homeowners to understand their options, with more than 70% saying they understood their options and how to work with their lenders much better than before. In these programs, pre-mediation sessions are conducted one-on-one with a housing counselor. In the 21st Circuit program, homeowners were more apt to say they understood somewhat better than before. There, the pre-mediation sessions are facilitated by a mediator and include the lender attorney.

Do you understand the options you have regarding your home better than before the session?



* Homeowners did not complete pre-mediation session surveys in the 16th Circuit program.

Do you understand how to work with your lender better than you did before the session?



* Homeowners did not complete pre-mediation session surveys in the 16th Circuit program.

WHAT DOES THIS MEAN?

The differences in homeowner responses among the programs may be an artifact of how data is collected in each program. In the 20th Circuit program, most homeowners complete the questionnaires after they have learned whether or not they will be offered a loan modification. Their responses, therefore, may be colored by whether or not they received such an offer. In the 21st Circuit program, only 13% of homeowners completed the questionnaire, so their responses may not be representative.

Nonetheless, the homeowners who worked one-on-one with a counselor all said they gained greater understanding, with most saying they learned much more than they knew before. The

majority of the homeowners who commented about their experience in pre-mediation said that they liked the fact that they were provided information or that information was explained well. This is further indication that the programs met their goal to help homeowners understand their situation and the process.

Lender Attorney View

Two lender attorneys with significant experience with foreclosure mediation programs throughout Illinois were interviewed to collect their perspectives on the programs. They were generally positive about foreclosure mediation. They both noted that their clients benefit from the programs. The lenders gain when the programs help homeowners to understand what they need to do during the foreclosure process. They also said that the programs help lender attorneys communicate with homeowners about the limitations that investor guidelines place on what lenders can offer to homeowners. The two-step process of the programs maximizes these two benefits. Pre-mediation helps streamline the document exchange process, while mediation provides clarification about how the lender arrived at its decision about whether to offer a loan modification and what those terms will be. One attorney said that it also provided closure to homeowners.

According to the attorneys, programs work best when they have firm deadlines and hold both parties accountable. One of the attorneys pointed to the foreclosure mediation program in Cook County as exemplary in this regard. In that program, the judge holds a hearing to ensure that both parties are abiding by deadlines.

One attorney, who had been involved as a stakeholder in developing several programs, said that a process in which the lender attorney is involved in sessions from the beginning is most productive. The person conducting those sessions has the authority to decide whether to continue the case, return it to court or send it to mediation. If the lender attorney is involved, that person gets the full story about what has been happening with the case, particularly before it entered the program. For example, did the homeowner miss multiple deadlines? Are they not eligible for a loan modification for some reason? The lender attorney can give reasons why mediation is not viable and provide the status of loss mitigation. For that reason, he believes resolution is quicker when the lender attorney is involved from the beginning.

Overall, the attorneys said the program coordinators worked well with them. One said they were incredible at responding. The mediators were, in general, good, although, in a couple of programs they found the mediators to be hit or miss.

EFFECT OF MODEL DIVERSITY ON FIRMS THAT REPRESENT LENDERS

Law firms that represent lenders tend to work across Illinois. This means that they need to follow the different rules and procedures that each program has implemented. The attorneys said that the lack of uniformity between programs was taxing on the law firms that represent lenders. Because the programs have different communication requirements, deadlines and processes, the firms have had

to develop practices and guides for rules in each county. Therefore, they cannot streamline the process.

Participant Characteristics

The demographics of the homeowners were tracked in four programs: the 16th, 17th, 19th and 20th Circuit programs. The programs were concerned that all homeowners of all races/ethnicities participate in the programs proportionately to their representation in the population. They also wanted to ensure that they be served equally once they decided to participate.

In each of these programs, the racial and ethnic makeup of the homeowners who contacted the programs roughly correlated with the general racial and ethnic makeup of the counties the programs serve, although in the 17th and 20th Circuit programs, non-Hispanic Whites were slightly under-represented and Latinos and Black/African-Americans were over-represented. This probably reflects the race and ethnicity of homeowners with foreclosure filings against them, as nationwide, Black/African-Americans and Latinos have been hit harder by foreclosures than non-Hispanic Whites.¹⁸ Unfortunately, reliable data on the race or ethnicity of homeowners in foreclosure is not available for the individual counties covered by the programs, so there is no way to determine whether the program participants accurately reflect the racial and ethnic makeup of all homeowners with foreclosures filed against them.

Interestingly, in all programs but the 19th Circuit program, the ratio of minority homeowners increased as the cases moved through the programs. That is, Black/African-Americans and Latinos made up a greater proportion of homeowners who entered the programs than who contacted them and made up a greater proportion of homeowners who completed the programs than entered them. In the 19th Circuit program, fewer Latinos who made first contact with the program completed the steps to participate. The program is working to address this issue.

¹⁸ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#). Center for Responsible Lending (June 18, 2010).

Hall, Matthew, Kyle Crowder, Amy Springer. "Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions," AMERICAN SOCIOLOGICAL REVIEW (April 2015).

IV. INDIVIDUAL PROGRAM EVALUATIONS

This section presents an extensive evaluation of each of the six Attorney General-funded foreclosure mediation programs in operation at the end of the evaluation period.

6th JUDICIAL CIRCUIT (CHAMPAIGN COUNTY) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Conclusion](#)

16th JUDICIAL CIRCUIT (KANE COUNTY) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Judge and Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Participant Characteristics](#)[Discussion and Recommendations](#)[Conclusion](#)

17th JUDICIAL CIRCUIT (WINNEBAGO & BOONE COUNTIES) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Judge and Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Participant Characteristics](#)[Discussion and Recommendations](#)[Conclusion](#)

19th JUDICIAL CIRCUIT (LAKE COUNTY) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Judge and Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Participant Characteristics](#)[Discussion and Recommendations](#)[Conclusion](#)

20th JUDICIAL CIRCUIT (ST. CLAIR COUNTY) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Judge and Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Participant Characteristics](#)[Discussion and Recommendations](#)[Conclusion](#)

21st JUDICIAL CIRCUIT (KANKAKEE COUNTY) PROGRAM

[Overview](#)[Program Description and Procedures](#)[Program Administration Perspectives](#)[Program Characteristics](#)[Program Performance](#)[Participant Characteristics](#)[Discussion and Recommendations](#)[Conclusion](#)

6TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Champaign County

Overview

| | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch Date | October 1, 2014 |
| Program Size | Approximately 140 cases per year (35 of 57 foreclosures filed in the 4 th Quarter of 2014 entered the program) |
| Type | One-step entry |
| Homeowner Entry Process | Attend pre-mediation session |
| Intake | None; checked in by program coordinator at pre-mediation session |
| Pre-Mediation | Up to 3 formal pre-mediation sessions with either housing counselor or legal services representative to complete packet ; status sessions with mediator to complete document exchange |
| Mediation | Unlimited mediation sessions allowed by rule |
| Remain in Program During TPP?* | Yes |
| Timing of Foreclosure Stay | Date of service of process until return to court; if parties agree to TPP, stay remains until end of trial period |
| Homeowner Cost | None |
| Lender Additional Filing Fee | \$75 |
| Mediator Payment | \$200/case |
| Program Staff | 1 part-time program coordinator |
| Program Rule | Administrative Order 2014-1: Mandatory Foreclosure Mediation Program |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from others in this evaluation:

- The [lenders](#) must provide proof to the Circuit Clerk that they have scheduled a pre-mediation session in order to file a foreclosure case
- The program has a one-step entry process: the [homeowners](#) need only appear for their pre-mediation session to participate
- Housing counselors and legal services representatives conduct the initial pre-mediation sessions during a court call. In the other programs in the study, homeowners either go to the housing counseling agency for their sessions or attend court call sessions that are conducted by program staff or mediators

* Trial period plan, the term of the temporary loan modification

STATISTICS AT A GLANCE

In 2014, 21 homeowners entered the program.*

| Status of Cases as of December 31, 2014 | |
|-----------------------------------------|----|
| Foreclosures Filed | 57 |
| Contacted Program | 21 |
| Entered Program | 21 |
| Closed | 3 |
| Pending | 18 |

The program helps more than 60% of homeowners.

| Program Impact | |
|----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 61.4% |
| Foreclosures Avoided | N/A |
| Homes Retained | N/A |

Because pre-mediation sessions began in December 2014, the last month of the evaluation period, no homeowners had had time to complete the program.

| Outcomes of Closed Cases | | |
|-------------------------------|---|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention / TPP | 0 | 0% |
| Agreement: Relinquishment | 0 | 0% |
| No Agreement | 0 | 0% |
| Closed: Program Not Completed | 3 | 100% |

The three cases that have closed have done so, on average, in 50 days from the scheduling of the first pre-mediation session.

| Average Number of Days | | | |
|--------------------------------|------------------------|---------------------------------------------|-------------------------------------------|
| Filing to Close – All Cases | Program Entry to Close | Program Entry to Close – Completed Cases | Program Entry to Close – not Completed |
| N/A | 50 | N/A | 50 |

The few homeowners who completed the pre-mediation questionnaire had a positive reaction to their pre-mediation session.

| Pre-Mediation: Homeowner Experience (n = 5) | |
|-------------------------------------------------------|------|
| Understand Options Better Than Before | 80% |
| Understand How to Work with Lender Better Than Before | 80% |
| Satisfied Overall | 100% |

*An additional 14 homeowners whose cases were filed in 2014 entered in 2015.

IMPORTANT FINDINGS

More than 60% of eligible homeowners facing foreclosure were helped by the program

Thirty-five of 57 homeowners who had foreclosures filed against them appeared for their first pre-mediation session, at which they received an orientation and assistance from either a housing counselor or legal services representative. This 61.4% participation rate is higher than any but the 21st Circuit program.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO MEET?

According to an article in *The News-Gazette*, the judge who oversees foreclosure cases repeatedly had homeowners come to court frustrated by their lack of communication with their lenders. They could not get the same person from their lender on the phone twice, and once they put together all the documents they needed and sent them to their lender, the documents were lost or became stale before they were reviewed. He also saw lender attorneys arriving in court without knowing what the status of the [foreclosure](#) was and without the authority to settle.¹⁹

PROGRAM ADMINISTRATION

This program is administered by the University of Illinois College of Law Community Preservation Clinic. A part-time program coordinator manages the program. The school's law librarian helps out by scheduling pre-mediation and mediation sessions. Program partners are Navicore Solutions, a HUD-certified housing counseling agency, and Land of Lincoln Legal Services. These organizations conduct pre-mediation sessions. The program has a panel of ten private mediators trained in foreclosure issues. Mediators are paid a flat \$200 fee per case.

ELIGIBLE CASES

All residential mortgage foreclosure cases are eligible for the program.

NOTIFICATION AND OUTREACH

Homeowners receive information about the program with their notice of [summons](#), which also tells them they are mandated to attend a pre-mediation session.

Prior to launch, the court and program staff held a press conference to announce the program. They also held meetings with the plaintiff's bar and the local bar associations. The program also has a [website](#).

¹⁹Christine Des Garennes, "Mandatory mediation on tap for foreclosure process," THE NEWS GAZETTE, August 10, 2014. Online at: <http://www.news-gazette.com/news/local/2014-08-10/mandatory-mediation-tap-foreclosure-process.html>. Last accessed on June 3, 2015.

ENTRY PROCESS

Prior to filing a foreclosure case, the lender attorney calls or emails the Champaign County Law Librarian to schedule the pre-mediation session. This session must be between 42 and 60 days from the date of summons. Once the librarian schedules the session, she communicates the date to the lender attorney, who must include that date in the foreclosure filing. The lender attorney then serves the homeowners with the notice of summons, which includes the date they must appear for the pre-mediation session and the [Notice of Mandatory Mediation](#). If the homeowners appear on the scheduled date, they enter the program. In very rare instances, the homeowners may contact the law librarian before the session if they have an extenuating circumstance and cannot attend it. In those situations, the librarian may continue the case to another date.

PROGRAM PROCESS

Pre-Mediation Phase

The pre-mediation phase includes up to three pre-mediation sessions with either a housing counselor or a legal aid representative, as well as status conferences conducted by a mediator. All sessions take place during a special call in the Self-Help Center in the Champaign County Courthouse twice a month on Tuesdays. When the homeowners appear for their first pre-mediation session, the program coordinator, along with Justice Corps volunteers, checks them in and gives them the Land of Lincoln Legal Aid screening sheet. This sheet lets them know if their income falls below the line to qualify for Land of Lincoln's services. If the homeowners do qualify for legal services, the program coordinator has them meet with the representative from Land of Lincoln. If they do not, she sends them to the housing counselor from Navicore Solutions, a HUD-certified agency. Both have people on site that day.

About 15 minutes after the call begins, the program coordinator gives an orientation to the homeowners. She describes what the program is, whom they can see and what their options are. She then starts sending people to the legal services representative or the housing counselor based on who arrived first.

If the homeowners see the Land of Lincoln attorney, the attorney walks them through Land of Lincoln's retainer agreement and explains the services that Land of Lincoln can provide. If the homeowners brought legal and financial documentation with them, the attorney reviews the documents with them. Since the homeowners generally don't bring all the necessary documents to complete the [loan modification packet](#), the representative sets up an appointment with the homeowners at the legal aid office, with the goal of completing the packet before the next pre-mediation session.

If the homeowners see the housing counselor, they go over what documents are needed, why they need them, and how to get them to the counselor. Here, too, the housing counselor sets up an appointment at his/her office with the hope of completing the packet before the next appearance.

When the homeowners appear for their second and third pre-mediation sessions, they meet with the same counselor they met with at the first session. Having homeowners appear for later sessions is meant to ensure the cases continue to move forward and that lenders are aware of this progress. Further, even though homeowners are supposed to complete their packets before the next scheduled pre-mediation date, that does not always happen. Thus, these sessions also serve the purpose of motivating homeowners by giving them a set deadline to compile their documents. Although the rule allows for three pre-mediation sessions, early cases indicate that those who see the housing counselor need only one or two.

When the packet is submitted to the lender, the case is scheduled for a status conference, which must take place within 45-60 days of the last pre-mediation session. In the meantime, the lender must provide a [detailed list](#) of missing documents within 14 days of receiving a completed packet from the homeowners, and the homeowners must supply those missing documents within 21 days. If the exchange of documents is completed before the first status conference, the case moves directly to mediation.

Status conferences are conducted by the mediator; the homeowners and lender attorney must attend in person. The purpose of the conference is to facilitate [document exchange](#) by ensuring that communication continues between the lender and the homeowners and helping to clear up misunderstandings and conflicts over what documents the homeowners have submitted. Even though the mediator takes over the case, the housing counselor or legal aid attorney continues to help the homeowners throughout the document exchange process and attend the sessions.

Status conferences continue to be scheduled if the packet is not complete or the lender has not completed its review of the packet at the time of the current conference. Once the lender completes its review and certifies the packet is complete, the lender attorney schedules a mediation and cancels the next status session.

Mediation Phase

After the document exchange is completed, the lender's attorney files the [Plaintiff's Certificate of Readiness](#) with the court. This contains the date in which the lender acknowledged the packet was complete, as well as the date of mediation. Mediation should take place within 45 days. The lender is required to provide the homeowners with a completed [Plaintiff's Questionnaire](#) within 30 days of filing the Certificate of Readiness and no later than seven days before the mediation.

The homeowners and the lender's attorney must attend mediation in person. The homeowners are accompanied by the housing counselor or legal aid attorney who assisted them during the pre-mediation phase. The lender's representative with full settlement authority must also attend, but may do so by phone. The purpose of mediation is to see if the lender and homeowners can negotiate a [temporary loan modification](#) or other [foreclosure avoidance](#) option. There is no deadline for completing mediation.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not appear for a pre-mediation session
- The homeowners do not submit a complete packet by the end of three pre-mediation sessions
- The homeowners do not does not meet the criteria for any option to avoid foreclosure or do not wish to pursue the options
- The parties do not agree to any option to avoid foreclosure

Cases are returned to court for dismissal if the parties agree to a retention option other than a temporary loan modification or if they agree to a [relinquishment](#) option. If the homeowners and lender agree to a temporary loan modification, the program keeps the case until the end of the trial period. Per the program design, a mediation will be scheduled for the end of the trial period to facilitate any issues with the conversion to a permanent loan modification. If the parties agree on the conversion and sign the documents beforehand, the mediation will be cancelled.

Program Administration Perspectives

The program coordinator was interviewed to get her perspective on the program.

WHAT IS WORKING WELL?

Most homeowners are participating in the program. The program coordinator suggested two reasons for this. First, prior to launching the program, the court and the University of Illinois Law Clinic publicized the program, so homeowners should have been very aware of the program. In addition, the county courthouse, where the sessions are held, is centrally located. Homeowners have to travel at most 20-25 minutes to attend.

Program Characteristics

The program is projected to serve about 140 homeowners annually, which puts it right in the middle of the programs in terms of size. All but one of the homeowners served had cases that were filed after the program start date, with all responding to the notification of the program that accompanies their notice of summons. The other case was filed in 2011. The homeowner in that case filed a motion to be referred into mediation.

SIZE OF PROGRAM

The program is projected to serve about 140 homeowners per year

Champaign County has the fewest foreclosure filings of any program county. However, because the 6th Circuit program's participation rate is high, it has the potential to serve more homeowners than other Attorney General-funded programs that have many more foreclosure cases.

| Annual Numbers* | |
|--------------------|-----|
| Foreclosures Filed | 228 |
| Contacted/Referred | 228 |
| Entered Program | 140 |

*These are projected numbers based on the program's first three months.

CASE CHARACTERISTICS

All cases start with a session with either a housing counselor or a legal services representative. Once the packet is complete, the mediator takes over, conducting status sessions to facilitate document exchange. When the lender reviews the packet, the mediator shifts the focus of the sessions to mediating a resolution.

Referral Source

All homeowners except one arrived for their first pre-mediation session in response to the notification of the session that accompanied their notice of summons. The other homeowner, whose case was filed in 2011, filed a motion to be referred into the program.

Services Received

All homeowners receive the assistance of a housing counselor or legal services attorney. There are no data on how many receive which service.

Program Performance

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packet reviewed and negotiating with their lenders
- How many of those outcomes are positive – either [retentions](#) or [relinquishments](#), with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|------------------------|-----------------------------------------------------------------------------|
| Participation | 21 homeowners attended the first two pre-mediation sessions |
| Impact | The program serves 61% of homeowners facing foreclosure |
| Outcomes | 3 homeowners did not continue to participate after their first session |
| Participant Experience | Homeowners felt respected and treated fairly in their pre-mediation session |
| Time in Program | The quickest a case will leave the program is about 50 days |

PROGRAM ACTIVITY

Status of Cases

Two pre-mediation session calls were held during the evaluation period. 21 homeowners attended those calls.

| Status of Cases Through December 31, 2014 | |
|-------------------------------------------|----|
| Foreclosures Filed | 57 |
| Referred to Program | 57 |
| Appeared for Pre-Mediation | 21 |
| Closed | 3 |
| Pending | 19 |

Sessions held

There are no data on the number of sessions nor the time spent in them.

PROGRAM IMPACT

The program has the second highest impact in terms of homeowners helped

Of the 57 foreclosures filed from the program launch through December 2014, 35 homeowners eventually appeared for their first pre-mediation session. This means that the program helped 61.4% of all eligible homeowners. This is more than any other program except the 21st Circuit program. The full 61% of homeowners received assistance when they arrived for their first pre-mediation session. At this session, they received an orientation to the foreclosure process, the foreclosure mediation program and the services available to them. They then met with either a housing counselor or legal services representative to go over their financial information and what was needed in order to complete their loan modification packet.

The program also assists homeowners by helping them submit their loan modification packets to their lenders and then by facilitating communication and negotiation with their lenders. At the end of the evaluation period, homeowners had only attended their first pre-mediation sessions, so they had not received these services.

PARTICIPATION

The one-step entry model appears to be effective at maximizing participation

Thirty-five of 57 homeowners participated in the program.²⁰ The participation rate of 61.4% is the second highest of all the programs funded by the Attorney General, and 33% higher than the program with the third highest participation rate. The most likely reason for the high participation rate is the mandatory model of recruitment. This model notifies homeowners that they must attend

²⁰ Fourteen of these homeowners participated in January 2015. They are included because doing so provides a clearer picture of the participation rate.

the pre-mediation session call and has an easy, [one-step entry](#) process. Both one-step entry programs have participation rates above 60%, and more than twice as high as the [multi-step entry](#) programs.

OUTCOMES

The first pre-mediation sessions were held in December 2014. Therefore, there had not been enough time in the evaluation period for any cases to have completed the program. Of the 21 homeowners who attended the sessions, three homeowners did not continue through the program. Of those three homeowners, two decided not to participate. In the other case, the lender filed a motion to have the case be removed from the program.

TIME IN PROGRAM

The shortest time a case will stay in the program is about 50 days

The three cases that have closed have done so on average in 50 days from the scheduling of the first pre-mediation session.

| Average days... | | How calculated... |
|----------------------------------------------------|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From filing to close | N/A* | From filing to program exit |
| From program entry to program exit | 50 | From date lender contacts program to schedule pre-mediation session to program exit |
| From program entry to program exit – completed | N/A** | From date lender contacts program to schedule pre-mediation session to program exit – cases that reached agreement or no agreement |
| From program entry to program exit – not completed | 50 | From date lender contacts program to schedule pre-mediation session – cases in which the homeowner withdrew or did not comply with the program requirements |
| In pre-mediation phase | 50 | From date lender contacts program to schedule pre-mediation session to date scheduled for mediation or program exit |
| In mediation phase | N/A | From date scheduled for mediation to program exit |

*Since the cases are filed after the lender contacts the program to schedule the pre-mediation session, this statistic is not applicable.

**No cases had been completed by the end of the evaluation period.

WHAT DOES THIS MEAN?

The foreclosure process is stayed at the time of filing. This means that when homeowners do not appear or withdraw, the earliest the stay is removed just after the first pre-mediation session date. Given program timelines, in which the first pre-mediation session takes place from 42 - 60 days after the homeowner is served, 50 days is a good estimate of the shortest amount of time a case will be in the program before the stay is lifted and the foreclosure process starts. It is too early to tell how long it takes cases in general to move through the program and result in an agreement or no agreement.

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires²¹

Procedural Justice

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a profound impact on parties' satisfaction with the justice system and their perception of its fairness.²² To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

| Pre-Mediation: Respect and Fairness (n=5) | | | |
|-------------------------------------------|-----------|----------|------------|
| | Very much | Somewhat | Not at all |
| Did the counselor treat you with respect? | 100% | 0% | 0% |
| Did the counselor treat you fairly? | 100% | 0% | 0% |

WHAT DOES THIS MEAN?

All the homeowners felt they were treated very fairly and with very much respect. This indicates that they had an experience of procedural justice.

Understanding

Four of the five homeowners who completed the questionnaire left the program with a greater understanding of their options and how to work with their lender.

| Pre-Mediation: Increase in Understanding (n = 5) | | | |
|--------------------------------------------------------|-----------|----------|------------------------------|
| | Very much | Somewhat | No, I still don't understand |
| Understand options better than before? | 20% | 60% | 20% |
| Understand how to work with lender better than before? | 20% | 60% | 20% |

WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. There is not enough information available yet to tell how well the program is doing in this respect.

²¹ Homeowners complete the pre-mediation session questionnaire at the end of the first pre-mediation session. Five of 21 homeowners completed the questionnaire during the evaluation period. This is a 24% response rate.

²² Alan E. Lind, "In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System," LAW & SOCIETY REVIEW, 24: 953-996 (1990)

Satisfaction

All five homeowners were satisfied with their experience in pre-mediation

| Pre-Mediation: Satisfaction (n = 5) | | | | |
|-----------------------------------------------------|-----------------------|------------------|--------------------|-------------------------|
| | Very Satisfied | Satisfied | Unsatisfied | Very Unsatisfied |
| How satisfied are you with your overall experience? | 60% | 40% | 0% | 0% |

Homeowner Comments

Three of the five homeowners said they liked that someone was willing to help or that the session was helpful. One mentioned the “very caring and patient” people, and one said the session was “informative.”

PARTICIPANT CHARACTERISTICS

Demographic data for the participants was not collected during the evaluation period.

Conclusion

The program in the 6th Circuit is still too new to know how well it is performing overall. Early data, however, show the program has a high participation rate (61.4% of eligible homeowners) and a positive response from homeowners. The high participation rate is similar to that of the other mandatory program, the 21st Circuit program, and is most likely due to the mandatory model of homeowner recruitment, in which homeowners are told they must attend the pre-mediation session call and their appearance is the only step needed to enter the program.

16TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Kane County

Overview

| | |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch Date | January 2, 2014 |
| Program Size | 366 cases entered the program in 2014 |
| Type | hybrid |
| Entry Process | HO* completes initial conference with PC* and files court appearance |
| Intake | By PC before HO submits financial documents and checklist |
| Pre-Mediation | 1-2 HC* sessions (optional) to complete packet , possible legal assistance from Northern Illinois University College of Law clinic |
| Mediation | Unlimited sessions allowed by rule; generally 1 -2 in practice |
| Remain in Program during TPP?* | Depends; if TPP reached prior to mediation, case stays in program, if TPP reached during mediation, case stays in program, if HO requests |
| Timing of Foreclosure Stay | Date of service of process until 28 days after case leaves program, or for 45 days from date of service of process if homeowner does not contact the PC |
| Homeowner Cost | \$167 court appearance fee; may be waived |
| Lender Additional Filing Fee | \$50 |
| Mediator Payment | \$100 for first mediation session, \$50 for second; capped at \$150 regardless of number of sessions |
| Program Staff | 1 full-time program coordinator and 1 full-time bilingual paralegal |
| Program Rule | Article 5.00: Mandatory Residential Foreclosure Mediation Program |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- The program is a [hybrid](#) of a [one-step entry](#) program and a [multi-step entry](#) program: [Homeowners](#) are told they must contact the program coordinator, but they also must complete other steps in order to participate
- Homeowners must file an appearance in order to participate

* HC = housing counseling HO = homeowner PC = program coordinator TPP = trial period plan

STATISTICS AT A GLANCE

This is by far the largest program, with 366 homeowners participating in 2014.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-------|
| Foreclosures Filed | 1,598 |
| Initial Conference | 416 |
| Entered Program | 366 |
| Closed | 260 |
| Pending | 116 |

The program helps almost 3 of 10 eligible homeowners. About 7% avoid foreclosure.

| Program Impact | |
|-----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 28.5% |
| Foreclosures Avoided* | 6.9% |
| Homes Retained* | 5.4% |

*Projected numbers based on closed cases.

Homeowners who enter the program are likely leave without completing it. However, 65% of those homeowners who complete the program avoid foreclosure.

| Outcomes of Closed and Completed Cases* | | | |
|-----------------------------------------|-----|-------------------|----------------------|
| | # | % of Closed Cases | % of Completed Cases |
| Agreement: Retention/TPP | 55 | 21.2% | 50.0% |
| Agreement: Relinquishment | 16 | 6.2% | 14.5% |
| No Agreement | 39 | 15.0% | 35.5% |
| Closed: Program Not Completed | 146 | 56.2% | N/A |

On average, it takes about 3 ½ months to complete the program.

| Average Number of Days | |
|------------------------------------------|-----|
| Filing to Close – All Cases | 117 |
| Program Entry to Close | 81 |
| Program Entry to Close – Completed Cases | 102 |
| Program Entry to Close – Not Completed | 64 |

Mediation participants have had an overwhelmingly positive response to the process.

| Mediation Participant Experience | | |
|----------------------------------|--------------------|-----------------------|
| | Party (n = 188) | Attorney (n = 145) |
| Satisfied Overall | 92% | 95% |
| Satisfied with Outcome | 82% | 85% |
| Process was Fair | 95% | 99% |

- Housing counseling is optional; homeowners who decide not to work with a housing counselor do not receive assistance with completion and submission of their [loan modification packet](#) unless they seek legal counsel or work with the NIU clinic
- Housing counseling is not funded by an Attorney General grant
- Law students provide legal information through the Foreclosure Help Desk and Homeowner Workshops, and provide limited-scope representation to a small number of homeowners
- Payment is by session: \$100 for the first and \$50 for the second (mediators are not paid for any further sessions); mediators were required to conduct three mediations pro bono at the beginning of the program

IMPORTANT FINDINGS

The 16th Circuit program serves the most homeowners of all the programs

The program served 366 homeowners, 84% more than the next highest program.

Homeowners who complete this program are very likely to avoid foreclosure

Of those who complete the program, 50% reach agreement to retain their homes and 15% reach an agreement to voluntarily relinquish their homes. This falls in the middle of all programs.

This program has the highest impact on homeowners, with the exception of the one-step entry programs

Almost 29% of all homeowners in [foreclosure](#) are helped in some way. This is 8% more than any multi-step entry program. The difference in program impact is due to both the higher rate of homeowners contacting the program and the fact that everyone who contacts the program receives some assistance with understanding the foreclosure process, their options and the services available to them.

This program has the second highest rate of homeowners leaving the program without completing it; 56% of homeowners who enter the program do not complete it

More than half of participating homeowners (56%) leave the program without completing it. This is the highest rate, with the exception of the 17th Circuit program, which removes some homeowners.

Temporary loan modifications are being converted into permanent modifications

In 28 of the 31 cases for which the information is available, the [temporary loan modification](#) was successfully converted.

People of all races/ethnicities were equally served by the program

There was no significant decline in minority participation as the homeowners progressed through the program.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM CREATED TO MEET?

The court had seen its foreclosure call grow from two mornings a week to five full days. At the same time, the foreclosure judges were seeing unrepresented homeowners who did not know how to navigate the court system and were trying to work with their [lenders](#) to obtain a loan modification, but were not succeeding.

The program was set up to address these issues. The court wanted to help homeowners so that they could have the opportunity to save their homes or [exit them gracefully](#). It also wanted to increase the efficiency of moving foreclosure cases through the system. The mediation process was also supposed to, as stated in the court rule, “reduce the burden of expenses” incurred by the court, lenders, homeowners and taxpayers as a result of foreclosures, and to limit the burden of abandoned and vacant homes on the community.

PROGRAM ADMINISTRATION

This program is administered by Resolution Systems Institute. The program is staffed by a full-time program coordinator, who is an employee of RSI, and a full-time paralegal, who is fluent in Spanish and English and a court employee. The two staff members work in the program office, which is located on the fourth floor of the Kane County Courthouse in Geneva.

Program partners include Northern Illinois University College of Law, whose law clinic students staff the foreclosure desk and represent a few selected homeowners as they move through the program and attend mediation. In December 2014, they started helping homeowners at “pre-screening workshops”, as well (see below for more details on these workshops). The housing counseling program partners are Joseph Corp, Neighborhood Housing Services and Consumer Credit Counseling Services of Northern Illinois, all of which provide free services during the pre-mediation phase. Two legal services agencies also work with the program. Prairie State Legal Services has represented a few homeowners in mediation and attends some of the pre-screening workshops. It was also instrumental in drafting the court rules. Administer Justice provides a foreclosure workshop to all homeowners, which includes an explanation of the mediation program. Along with Prairie State, the organization has been an active stakeholder in the program. An attorney from each organization attends all stakeholder meetings. A panel of 25 private mediators conducts the mediations. The mediators received a five-day foreclosure mediation training from RSI.

ELIGIBLE CASES

Eligibility is automatic for residential foreclosure cases filed in 2014. The court may also order cases into the program that were filed prior to 2014. Eligibility is limited, however, to homeowners who either live at the property or have right of return, and to properties with one to six units.

NOTIFICATION AND OUTREACH

Homeowners are first informed about the foreclosure mediation program when they receive their notice of [summons](#) from their lenders' attorneys. Included is a [First Notice of Mandatory Mediation](#) that tells homeowners they *must* call the mediation program coordinator within 30 days for an initial conference and to file an appearance in order to participate. It also includes the [Homeowner's Checklist and Questionnaire](#), which asks homeowners basic background questions and provides a checklist for them to follow while completing the loan modification packet. They have a second opportunity to learn about the program from a postcard that the program coordinator sends to them two weeks later. The postcard tells them they need to contact the program coordinator by the deadline specified on the postcard and that they need to file an appearance.

County residents may also learn about the program from [brochures](#) left in legislators' offices, the County and Circuit Clerk's offices, the Recorder of Deeds office and most of the township offices. The housing counseling and legal aid offices have brochures, as well. The program also has a [website](#), which includes information about the program, the program's timeline and a [video](#) outlining the process and required documents. In addition, the program coordinator and housing counselors attend open houses and community events, where they talk with homeowners directly. Homeowners may also learn about the program from the court's foreclosure help desk.

ENTRY PROCESS

Once they receive their [service of process](#), the homeowners are required to contact the program coordinator for their initial conference within 30 days and file an appearance in court within 45 days in order to participate in the program. If they fulfill both requirements, their case is not returned to court to resume the foreclosure process.

PROGRAM PROCESS

Initial Conference

When the homeowner contacts the program coordinator, he either schedules or conducts the initial conference. In practice, he almost always conducts it at that time, and almost always by phone. If the homeowner is Spanish-speaking, the initial conference is conducted by the paralegal. On occasion, the initial conference happens in person – generally because the homeowner has been referred by the court's foreclosure help desk or the presiding foreclosure judge to talk to the mediation program. In the initial conference, the program coordinator screens the homeowners for eligibility (ensuring that they signed the mortgage and live at the property) and then asks background questions, including whether they want to keep their home, what their primary reason is for [default](#), and demographic information. He then explains the program and tells them what they need to do to participate.

Pre-Mediation Phase

Document Submission

The next step depends on whether the homeowners have already submitted a loan modification packet to their lender. If they have not submitted a packet, the program coordinator refers them to

one of two HUD-certified housing counseling agencies (either Neighborhood Housing Services or Joseph Corp) to help them do this. Alternatively, he may refer them to the Northern Illinois University Law Clinic for legal assistance, if he thinks they might benefit from their assistance. If the homeowners have already submitted the packet (or if they do not want to work with a housing counselor), he instructs them to send him the Homeowner's Checklist and Questionnaire they received with their notice of summons. In either case, they have 30 days to submit the packet and/or complete the checklist and questionnaire, but they can ask the program coordinator for a 30-day extension. The program coordinator says he is fairly generous with extensions; as long as he sees they are acting in good faith to get the necessary documents together or have a solid reason for needing the extension, he will give it.

If the homeowners opt to work with a housing counselor, the program coordinator refers them to one of the agencies, generally dividing the referrals by homeowner zip code. The homeowners then make an appointment with a counselor at the agency office. The counselor goes over their financial information with them, discusses their options and helps them to complete and submit the packet. The counselor continues working with the homeowners to fulfill any further document requests from the lender.

When the program coordinator refers homeowners to the Northern Illinois University Law Clinic, the homeowners contact the clinic, if they wish and arrange a meeting. Law clinic students, supervised by a faculty member, conduct a screening and decide whether they will represent the homeowners. The faculty member will approve the student taking on the case if it will go to mediation, if it does not involve complex legal issues and if the case presents a good learning opportunity for the student. If the student takes on the case, he/she helps the homeowner to collect their financial documents and to complete the necessary legal documents, such as their [court appearance](#) and their request to sue and defend as indigent so that the appearance fee is waived. The student also prepares the homeowners for mediation by describing what it is and how they can use it to meet their goals. The student then attends the mediation session as the homeowner's advocate. If no agreement is reached in mediation, the student helps the homeowners prepare their [answer](#) to the foreclosure summons and submit it to the court.

Beginning in December 2014, the program started monthly "pre-screening workshops." Four homeowners are scheduled for each workshop, which takes place in the program office. These workshops provide one-stop services to homeowners. During the workshops, the homeowners first have an initial conference with the program coordinator, then meet with a housing counselor from Consumer Credit Counseling Services, which is a HUD-certified housing counseling agency, and with a legal aid attorney from Prairie State Legal Services or a law student and the faculty supervisor from NIU. The intent of the meeting with the housing counselor is to end with a completed loan modification packet. If the homeowner does not have all necessary paperwork, a subsequent session may be necessary. The legal aid attorney or NIU clinic member helps the homeowners to complete their appearance form and provides any needed legal advice. These workshops are limited to those whose income level would qualify them for Prairie State's legal services.

Lender Review

Once the homeowners submit the loan modification packet to the lender and send the Homeowner Checklist and Questionnaire to the program coordinator, the case moves into the lender review stage. At this point, the lender has 45 days to ask the homeowners for further documents and review the packet. At the end of the 45 days, the lender's attorney sends the Plaintiff's Checklist and Questionnaire to the program coordinator. The questionnaire states that the lender is ready for mediation. Most often, this means that the lender has completed its review of the loan modification packet, but in some cases other issues that would benefit from mediation, such as how a pending divorce affects homeowner obligations or how to proceed if the homeowners are in bankruptcy, have arisen.

Mediation Phase

Once the program coordinator receives the Plaintiff's Checklist and Questionnaire, he schedules a mediation session for approximately two weeks later. The sessions take place in the program office, which is in the Kane County Courthouse. Although the rule presumes only one session, in practice two 90-minute sessions are the norm. The purpose of the mediation session is to explore the possibility of [avoiding foreclosure](#). The lender has reviewed the packet and often arrives at mediation with an answer as to whether a modified loan will be offered and, if so, what its terms will be. However, in many cases, the parties arrive for mediation needing to continue to exchange documents. In others, the mediation uncovers additional information that affects the lender's decision about whether to offer a loan modification. In both these cases, the mediation will be continued for a second session.

To reduce the need for two full mediation sessions, the program coordinator began implementing pre-mediation sessions in September 2014. In these sessions, which take place at the courthouse, the lender's attorney, homeowners and mediator talk about what is required to move toward whatever goal the homeowners have. These are most helpful in two situations: when there is a complex ownership question arising from divorce or inheritance, and when there are repeated issues with the [document exchange](#). In the former, the homeowners have a lot of questions that need to be answered, such as what happens if one homeowner wants to modify the loan and the other is not interested. Repeated problems with document exchange generally happen when mortgage ownership changes and the homeowners are working with a new lender.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not contact the program coordinator for an initial conference and file an appearance within 45 days
- The homeowners do not complete the required documentation within 30 days of the initial conference (or 60 days if given an extension)
- The homeowners do not appear for a scheduled mediation session

- The homeowners decide not to pursue any foreclosure avoidance options
- The homeowners and lender do not agree to any option to avoid foreclosure

If the parties agree to a temporary loan modification at mediation, the case does not continue in the program during the trial period; however, the stay remains on the foreclosure process until the end of the trial payment plan. If they agree to a temporary loan modification prior to a mediation, the case remains in the program and the stay on the foreclosure process continues until the trial plan is over. At the end of the trial period, the homeowner has the option of requesting a mediation session, but none did so during the program's first year. Whether or not a mediation session is held, the case returns to court to be dismissed if the temporary loan modification successfully converts to a permanent one. Otherwise, the foreclosure process continues otherwise and the stay is lifted 28 days after the trial period ends to allow the homeowners the time to file an answer.

If the lender and homeowners reach any other agreement, the terms are written up and the case returns to court for dismissal. If no agreement is reached, the case returns to court and the stay on the foreclosure process is lifted 28 days later.

Judge and Program Administration Perspectives

The Chief Judge²³ and the program coordinator were each interviewed by the evaluator to obtain their perspectives on the program.

WHAT IS WORKING WELL?

The Chief Judge noted that the interactions and relationships between the program and its stakeholders, including the lenders' attorneys, were very positive. Further, the program has a solid relationship with housing counseling agencies and legal assistance. The program coordinator also mentioned the cooperation of lenders' attorneys with the program, saying that they have been open to the program and that except for initial problems caused by issues with communication between them and the program, there have been few issues with non-compliance. He noted as well that the housing counselors were doing a good job of helping homeowners complete and submit their packets.

Both the Chief Judge and the program coordinator said that the mediators were improving as they gained experience. Initially, some almost always wanted a second mediation session, even if resolution was not feasible. For example, if the parties were pursuing a [short sale](#), the agreement to do so would not resolve the case because there was no way to know whether the house would sell and if so, when and for how much. Scheduling another mediation session would not answer those questions.

²³ The foreclosure judge had retired before interviews were conducted. Therefore, no sitting foreclosure judge was interviewed. The Chief Judge once sat on the foreclosure call and, therefore, had significant experience in the area.

The Chief Judge also mentioned the quality of the administrative staff. She was very impressed with the level of outreach the program coordinator was conducting and said having a bilingual paralegal available to talk with Spanish-speaking homeowners was very important.

CHALLENGES

According to the program coordinator and the Chief Judge, the biggest challenge has been to increase the number of homeowners who participate in the program. Once the homeowners have contacted the program coordinator as the first step in participating in the program, they then have to file a court appearance and pay a filing fee. This second step to enter the program was found to be too complex and costly for some homeowners to complete. Eleven percent of those who contacted the program coordinator never filed an appearance, and thus, never participated.

There were three stumbling blocks to filing an appearance: first, homeowners would forget or would think that contacting the program fulfilled the obligation; second, the form was hard for unrepresented homeowners to understand; and third, the \$167 appearance fee was an obstacle for homeowners who were already in financial straits. The first issue was addressed by improving the information that accompanied the summons. This included working with Northwestern University Law School students to create a video that clearly walks through the process of complying with the program. This is now emailed to all program participants. The second was fixed when the Illinois Supreme Court approved a uniform appearance form that is much easier to complete. The appearance fee issue was addressed in two ways. The Chief Judge asked the foreclosure judges to take into consideration the homeowners' participation in mediation when deciding whether to delay or waive the appearance fee, and the staff paralegal now goes to the hearing with the homeowners to help them file the request to waive the fee.

Another challenge program staff identified early on was the difficulty the housing counselors were having with packet submissions. Initially, packets were submitted to the lender via Hope LoanPort, an online service created to simplify housing counselor submissions of their clients' loan modification packets to their lenders. The lenders' attorneys reported that the lender did not let them know that they had received the packet. Further, according to the program coordinator, and confirmed by mediator reports, the lenders often lost the packets and the homeowners had to resubmit it. This lengthened the lender review stage by a week to two weeks, according to the program coordinator. To fix this, the program changed the submission process. Housing counselors now submit the packets to both the lenders and the lenders' attorneys. The attorneys then send the packets directly to the appropriate people at the lenders and, therefore, are better able to track the status of the packets. The program also changed the Plaintiff's Checklist and Questionnaire to ask the lenders' attorneys more direct questions about the status of the packet: Have you received a packet? Where did it come from? Is it complete? Since making the changes, the program coordinator says he is seeing greater success in getting confirmation from the lenders attorneys that they have received the packet, and they are responding more quickly to say that they are ready to start mediation.

The program coordinator also spoke of the confusion homeowners have about his role. In this model, the homeowners first call him and, when he refers them to housing counseling, they call the agency to make an appointment. Some homeowners do not understand that housing counseling is a different service from what the program coordinator does. This can delay their getting services, making it difficult for them to abide by the program's deadline for packet submissions. He is still working on a solution to this issue.

Program Characteristics

The 16th Circuit program had 366 participating homeowners in 2014, making it 84% larger than any other Attorney General-funded program. Its impact is higher, with 416 homeowners being helped in some way.²⁴ These 416 represent 29% of homeowners facing foreclosure in Kane County. More than 90% of homeowners who contact the program do so in response to the notification of the mediation program that accompanies their notice of summons. Few participating homeowners were referred to the program by a judge. All cases were filed after the program launch date. Fewer than 50% of participating homeowners obtained housing counseling services.

SIZE OF PROGRAM

The program serves 84% more homeowners than the next highest program

The program helped 416 homeowners in 2014. It has the second highest number of foreclosure filings.

| Annual Numbers | |
|--------------------|-------|
| Foreclosures Filed | 1,598 |
| Contacted/Referred | 416 |
| Entered Program | 366 |

CASE CHARACTERISTICS

Referral Sources

Few cases that contact the program are referred by the judges

Most homeowners contact the program in response to the mediation notification they receive with their notice of summons.

²⁴ Those who contacted the program coordinator, but did not enter the program, were given information about their options for their home and the services available to them outside of the program.

| | Referral Source | | |
|--------------------------|-----------------|----------------|-------------------|
| | # | % of Referrals | % of Foreclosures |
| Notice of Summons | 374 | 90.3% | 23.4% |
| Postcard Sent by Program | 31 | 7.4% | 1.9% |
| Judge | 5 | 1.2% | 0.03% |
| Help Desk | 2 | 0.4% | 0.01% |
| Social Services Agency | 2 | 0.4% | 0.01% |

WHAT DOES THIS MEAN?

Despite the rule allowing judges to refer cases, they only referred five cases. This means that fewer homeowners are being helped than can potentially benefit from the program.

⇒ **Recommendation:** Judges should refer appropriate cases to the program. The high participation rate and resulting high [retention](#) rate in the 21st Circuit program indicate that homeowners who could potentially benefit from the 16th Circuit's program are not responding to the notification of the program that accompanies their summons. Further, data from the 20th Circuit demonstrate that homeowners referred by judges are likely to save their homes.

When Cases Were Filed

All cases were filed after the program start date. This indicates that the five judge-referred cases were giving the homeowners a second opportunity to participate in the program rather than expanding the program to homeowners not automatically eligible under the court rule.

⇒ **Recommendation:** Judges should refer appropriate cases that were filed before the start date of the program. In the 20th Circuit program, cases filed as many as seven years before entering the program ended with an agreement allowing the homeowners to keep their homes.

Services Provided

The homeowners are not required to receive housing counseling or legal services assistance in this program. Once the lender reviews the loan modification packet, a mediator facilitates negotiations, which may include document exchange during the first session before moving to negotiation.

Housing Counseling

Housing counseling is voluntary in this program. Fewer than half the homeowners receive assistance from housing counselors, although slightly more than 50% are assigned to a housing counseling agency. The difference is caused by homeowners not following up with housing counseling or not appearing for their session. Homeowners who have already submitted a packet to their lenders prior to receiving their foreclosure summons or have an attorney tend to decide not to work with a housing counselor.

| Housing Counseling Attendance | | |
|-------------------------------|-----|-------|
| | # | % |
| Yes | 147 | 47.7% |
| No | 161 | 52.3% |

Legal Representation

Homeowners were represented by private counsel in 64 cases (16%). Seven received free legal services: four were represented by Northern Illinois University Law Clinic students, while Prairie State Legal Services assisted three homeowners.

Program Performance

A foreclosure mediation program's performance is based on a number of factors:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lenders
- How many of those outcomes are positive – either retentions or [relinquishments](#), with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Participation | 366 homeowners entered the program in 2014 |
| Impact | The program benefits 29% of all homeowners facing foreclosure |
| Outcomes | 28% of participating homeowners avoided foreclosure 65% who completed the program avoided foreclosure Of those who avoided foreclosure, 77% retained their homes |
| Agreement Rate | Mediation resulted in agreement in 53% of cases |
| Participant Experience | Homeowners felt respected and treated fairly; the vast majority were satisfied with their experience and the outcome |
| Time in Program | Cases averaged 101 days to complete mediation |

PROGRAM ACTIVITY

Status of Cases

The program helped more homeowners and saved more homes than any other program

The program helped 416 homeowners. Of the 260 whose cases were closed in 2014, 71 avoided foreclosure, with 55 reaching agreement with their lender to keep their home.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-------|
| Foreclosures Filed | 1,598 |
| Initial Conference | 416 |
| Entered Program | 366 |
| Closed | 260 |
| Retention | 55 |
| Voluntary Relinquishment | 16 |
| No Agreement | 39 |
| Program Not Completed | 146 |
| Pending | 106 |

Sessions Held

Initial Conference

The program coordinator or the program paralegal conducted an individual initial conference for all homeowners who contacted the program. That means that **416 initial conferences were held** in the program's first year. The program coordinator reports that they each take about 30 minutes.

Pre-Mediation

There is no exact information on the number or duration of housing counseling sessions. However, it is known that at least one session was held in each of 147 cases.

Mediation

During the evaluation period, **mediators held 112 mediation sessions for 91 cases**. The mediators spent on average 1.11 hours in each session and spent an average of 0.23 hours preparing for each session.

PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by the program. This includes providing information to homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packets, and facilitating negotiations with their lenders.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowners may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and, therefore, do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

The 16th Circuit program has benefitted almost one in three homeowners facing foreclosure

The program helped 29% of homeowners facing foreclosure. A projected 7% avoid foreclosure, with 5% keeping their home. These numbers put the program solidly in the middle of all the Attorney General-funded programs. However, hidden in these numbers is the fact that the 16th Circuit program helps 8% more eligible homeowners than the multi-step program with the highest impact.

| Impact – All Eligible Foreclosures | | |
|------------------------------------|--------------------------|---------------|
| | 16 th Circuit | Comparison |
| Homeowners Helped | 28.5% | 10.2% - 67.6% |
| Foreclosure Avoidance* | 6.9% | 2.5% - 26.5% |
| Retention* | 5.4% | 2.1% - 14.2% |
| Voluntary Relinquishment* | 1.6% | 0% - 12.3% |

*These are projected based on outcomes of cases already closed.

The full 29% of homeowners were given assistance during the initial conference with the program coordinator. At this conference, the program coordinator informs them of resources available to them, talks to them about their options for their homes and explains the foreclosure mediation program. Thus, 29% of homeowners received information that helped them navigate the foreclosure process, whether or not they participated in the program. The program then assisted the homeowners who continued in the process to try to avoid foreclosure by helping them submit their loan modification packets to their lenders and then, by helping them to negotiate with their lender.

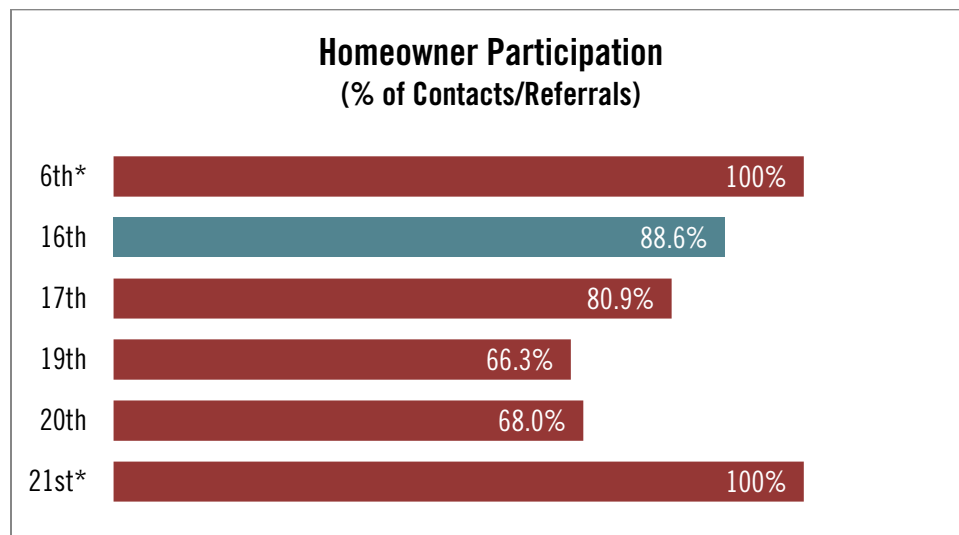
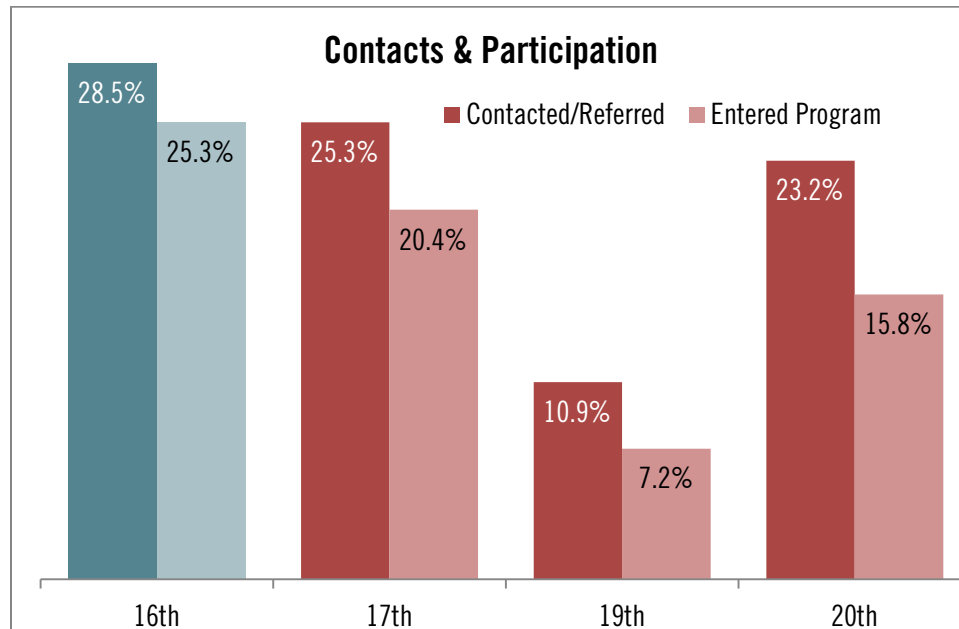
PARTICIPATION

The 16th Circuit program has a higher participation rate than the next highest multi-step entry program

Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In the 16th Circuit program, homeowners are considered to participate if they contact the program coordinator and file a court appearance. Thus, homeowners can start the process to enter the program, but not complete it. This means that the program has two tasks in bringing homeowners into the program. The first is encouraging the homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

The 16th Circuit program is doing well in both regards, when compared to the multi-step entry programs. At 29%, the percentage of homeowners who contact the program is 3.2% higher than the highest multi-step program. The homeowners who contact the program then complete the steps to enter the program almost 90% of the time. This not only gives it the highest rate of getting homeowners who contact the program to participate, but also led to a 25% participation rate which is 4.9% higher than the program with the next highest rate.



*Contact and entry happen at the same time in the 6th and 21st Circuit programs.

WHAT DOES THIS MEAN?

The court designed the program to maximize participation by telling homeowners in their notification of mediation that they *must* call the program coordinator and by orienting the

homeowners to the program prior to entering it. This helps them make the decision about whether to enter the program and understand what they need to do to participate.

This process appears to be making a difference in two ways – first, by getting more homeowners to contact the program in the first place, and second, by having more homeowners enter the program after contacting it. The first is due in large part to telling homeowners they are required to contact the program coordinator. The second is likely due, in part, to the relatively low barriers to entry, as well as the homeowners being given a one-on-one orientation to the program before they enter. This develops a relationship between the program and the homeowners, and also gives them more information that allows them to make a more informed decision about whether the program could be helpful to them. However, a number of other variables can also affect participation rates, including outreach efforts, the distance homeowners need to travel to obtain services and possibly the economic outlook in the county. Therefore, the model's effect on participation cannot be quantified in this evaluation.

OUTCOMES

What happens when homeowners enter the program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot, and should not, expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

In the 16th Circuit program, more than half of the homeowners left the program early, either by voluntarily withdrawing or not completing a step in the program process. When homeowners completed the program, 50% kept their homes, and another 15% reached agreement to voluntarily relinquish them. While most of these outcomes came during mediation, about 35% of homeowners who reached agreement with their lenders were able to do so during the pre-mediation phase.

Closed Cases

More than a quarter of homeowners who entered the program were able to avoid foreclosure

Of the 260 cases that closed, 71 avoided foreclosure. Of those, 55, or 21%, reached agreement to keep their homes. However, more than half left the program without completing it.

| Outcomes of Closed Cases (n=260)* | | |
|-----------------------------------|-----|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention/TPP | 55 | 21.2% |
| Agreement: Relinquishment | 16 | 6.2% |
| No Agreement | 39 | 15.2% |
| Closed: Program Not Completed | 146 | 56.8% |

*The outcomes for four cases were marked "other."

WHAT DOES THIS MEAN?

The percentage of homeowners who did not complete the program is higher than any other program, other than the 17th Circuit program. This has led the program to have the lowest percentage of foreclosure avoidance for participating homeowners.

Completed Cases

Almost 2/3 of homeowners who completed the program avoided foreclosure

Half of the homeowners who did complete the program were able to keep their homes. Another 15% were able to gracefully exit their home.

| Completed Cases | |
|---------------------------|----------------------|
| | % of Completed Cases |
| Agreement: Retention/TPP | 50% |
| Agreement: Relinquishment | 14.5% |
| No Agreement | 35.5% |

WHAT DOES THIS MEAN?

Homeowners who did complete the program had both a good chance of avoiding foreclosure and of keeping their home. The percentage of homeowners who avoided foreclosure during the program's first year is third highest among the Attorney General-funded programs.

Types of Retentions

Most homeowners who keep their home receive a temporary loan modification. Of the 55 retentions, 50 are loan modifications, most of which start as temporary loan modifications. The temporary loan modifications later usually turn into permanent modifications.

| Retention Outcomes (n=55) | | |
|-------------------------------|----|-----------------|
| | # | % of Retentions |
| Temporary Loan Modification* | 22 | 49.2% |
| Permanent Loan Modification | 28 | 42.6% |
| Reinstatement | 4 | 6.6% |
| Forbearance | 1 | 1.6% |

*These are modifications that have not completed their trial period or for which the program does not have information on whether they converted to permanent modifications.

Almost all temporary loan modifications are converted to permanent ones

The program has information on 31 loan modifications. Of those, 28, or 90.3%, were converted to permanent modification. The status of conversion is unknown for another three cases.

The high rate of loan modification conversions means that the terms agreed to were effective in that the homeowners could feasibly comply with them. The conversion rate also gives a more accurate picture of the number of homes saved, because, if the temporary modifications are not made permanent, the foreclosure process continues.

Types of Voluntary Relinquishments

About 30% of homeowners wanting to leave their homes were able to exit gracefully

Of the 34 homeowners who entered the program with the goal of relinquishing their home and whose cases were closed, ten reached an agreement to relinquish their home with either a [short sale](#) or a [deed in lieu](#) of foreclosure. Four did not reach an agreement, and 14 voluntarily withdrew. Four others did not complete the program for unknown reasons. In all, ten of the 16 homeowners who reached agreement to gracefully exit entered the program with that goal.

| Outcomes for homeowners wanting to exit gracefully (n= 34) | |
|------------------------------------------------------------|----|
| Short Sale | 8 |
| Deed in Lieu | 2 |
| No Agreement | 4 |
| Voluntary Withdrawal | 14 |
| Program Not Completed: Reason Unknown | 4 |

WHAT DOES THIS MEAN?

The 16th Circuit program is the only program with a large number of homeowners who are known to have entered the program with the goal of exiting their home gracefully. The outcomes of these cases show that foreclosure mediation can help these homeowners.

Program Completion

The homeowners complete the program if they have submitted a loan modification packet, the lender has reviewed the packet and the homeowner has an opportunity to weigh the options based on the

lender's decision about what to offer the homeowners. The homeowners not completing their documentation is the reason for the vast majority of cases that exit the program early.

4 in 10 homeowners did not complete their packets within the required timeframe

Of the homeowners whose cases closed, 41.1% did not complete their packet and were returned to court. This represents almost three-quarters of all homeowners who leave the program early. This is a higher rate than any other program for which data are available.

| Reasons Homeowners Leave Program (n = 146)* | | |
|----------------------------------------------------|----------|---------------------------|
| | # | % of Non-Completes |
| Did Not Complete Documentation | 107 | 73.2% |
| Withdrew | 28 | 19.2% |
| Did Not Appear for Session | 10 | 6.8% |
| Unknown | 14 | 9.5% |

*The categories do not add up to 100% because there can be more than one reason per case.

WHAT DOES THIS MEAN?

The reason for the high rate of document non-completion is unclear. At some point, the homeowners may have decided to let the foreclosure process go forward, but they did not communicate that decision to the program. The relatively easy entry process may mean that more less-motivated homeowners started the process than in other programs. In essence, the more easily homeowners enter, the more apt they are to leave the program without completing it.

Alternatively, they could have had difficulty putting the documents together or could have just given up. In this program, those homeowners who do not participate in housing counseling do not get help completing their packet or working through the document exchange process. While many homeowners who do not receive housing counseling have legal representation or have already submitted their packet, it is possible that some require more assistance.

A third possibility is that the role of housing counseling agencies in this program is not as clear as it is in others. The agencies are not fully integrated into the program, which could affect communication between program staff and the agencies, leading to less effective service. It also affects how homeowners understand what they need to do to proceed through the program. In other programs, the first point of contact is a housing counselor. In this program, it is the program coordinator. This means that some of the homeowners do not understand that they need to contact the housing counseling agency in order to get help with completing their packet.

⇒ **Recommendation:** The program should examine the reason so many homeowners do not complete their documentation in the required timeframe.

Outcomes by Program Phase

More than 1/3 of homeowners who were able to avoid foreclosure did so in the pre-mediation phase. The other 2/3 reached agreement to avoid foreclosure in mediation. Nevertheless, the most likely outcome in pre-mediation was for the homeowners to exit the program without completing it. Once they reached mediation, homeowners almost always completed the process.

Homeowners were most likely to exit the program before being referred to mediation

Slightly more than half of homeowners who entered pre-mediation did not complete this phase. Another 39% were referred to mediation. Almost 10% of homeowners reached agreement with their lenders during the pre-mediation phase.

| Pre-Mediation Outcomes (n = 267) | | |
|-------------------------------------------|-----|-------|
| Referred to Mediation | 105 | 39.3% |
| Referred to Legal Services – Left Program | 1 | 0.4% |
| In Trial Period Plan | 14 | 5.2% |
| Agreement: Retention | 7 | 2.6% |
| Agreement: Relinquishment | 4 | 1.5% |
| No Agreement | 1 | 0.4% |
| Closed: Program Not Completed | 135 | 50.6% |

WHAT DOES THIS MEAN?

Some homeowners are able to avoid foreclosure even before going to mediation, but most need mediation to do so. As with all programs, most homeowners who drop out of the program do so during the pre-mediation phase.

53% of mediations ended with an agreement

Of those who completed mediation, 53% reached an agreement to avoid foreclosure. In 32% of completed mediations, the homeowners reached an agreement with their lender that allowed them to keep their home. However, because some homeowners did not appear for their mediation session, or otherwise did not comply with program requirements, fewer than half of homeowners who were referred to mediation avoided foreclosure.

| Mediation Outcomes (n = 93)* | | |
|-------------------------------|----|-------|
| In Trial Period Plan | 27 | 29.7% |
| Agreement: Retention | 3 | 3.3% |
| Agreement: Relinquishment | 12 | 13.2% |
| No Agreement | 38 | 41.8% |
| Closed: Program Not Completed | 11 | 12.1% |

*Two outcomes were marked “other.”

WHAT DOES THIS MEAN?

The program has a lower agreement rate than the 17th and 19th Circuit programs, the two other programs that have held a significant number of formal mediations. However, the agreement rate is in the mid-range for programs nationally, where agreement rates range from 21% to 82%.²⁵

Effect of attending housing counseling on outcomes**Receiving housing counseling assistance did not have a statically significant effect on outcomes**

Homeowners who received housing counseling assistance were no more or less likely to complete the program or avoid foreclosure. Additionally, results from the two housing counseling agencies that provided service to homeowners participating in the program were similar to one another.

| Program Completion Rate: Housing Counseling v None | | | | | | |
|----------------------------------------------------|--------------|--|-----------|-------|---------------|-------|
| | Total Closed | | Completed | | Not Completed | |
| | # | | # | % | # | % |
| Attended Housing Counseling | 88* | | 39 | 44.3% | 46 | 52.2% |
| Did Not Attend | 112** | | 60 | 53.6% | 50 | 44.6% |

*Three were marked "other," and it is unclear whether the program was completed or not.

**Two were marked "other," and it is unclear whether the program was completed or not.

| Outcomes of Completed Cases: Housing Counseling v None | | | |
|---------------------------------------------------------------|-------------------------------------|--------------------------------------|---------------------|
| | Agreement: Retention/TTP | Agreement: Relinquishment | No Agreement |
| Attended Housing Counseling | 51.3% | 10.3% | 38.5% |
| Did not Attend | 46.7% | 16.7% | 36.7% |

WHAT DOES THIS MEAN?

[Unlike in the 20th Circuit program](#), the data show no clear difference between the outcomes of those who went to housing counseling and those who did not. This could be due to the two groups in the 16th Circuit not being random; their makeup is very different from one another. For example, about 30% of homeowners who did not receive housing counseling were represented by private attorneys, while homeowners receiving housing counseling were unrepresented. Further, few homeowners who were looking to relinquish their homes sought housing counseling. In addition, those who received housing counseling may have been held to a higher standard of documentation when completing their packets, which would have made it harder for homeowners to comply with program deadlines. This could have led to a lower completion rate for that group.

²⁵ For national statistics, see: Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE MEDIATION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

Outcomes by Housing Counseling Agency

During the evaluation period, two housing counseling agencies provided service to homeowners participating in the program. Their outcomes are statistically the same.

| Outcomes of Case by Housing Counseling Agency | | | | |
|-----------------------------------------------|-----------|----------------|--------------|------------------|
| | Retention | Relinquishment | No Agreement | Did Not Complete |
| Joseph Corp | 9 | 4 | 9 | 20 |
| Neighborhood Housing Service | 8 | 0 | 7 | 23 |

Time in Program

There are no delays in the foreclosure mediation process

Those homeowners who completed negotiations with the lenders did so on average in 3 ½ months. If they left before completing negotiations, they left the program on average at about two months.

| Average days... | | How calculated... |
|----------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From filing to close | 117 | From filing to program exit |
| From program entry to program exit | 91 | From date homeowners contact program coordinator for initial conference to program exit |
| From program entry to program exit – completed | 102 | From date homeowners contact program coordinator to program exit – cases that ended with an agreement or no agreement |
| From program entry to program exit – not completed | 64 | From date homeowners contact program coordinator to program exit – cases in which the homeowners withdrew or did not comply with program requirements |
| In pre-mediation phase | 65 | From date homeowners contact program coordinator to date scheduled for mediation or program exit |
| In mediation phase | 45 | From date scheduled for mediation to program exit |

WHAT DOES THIS MEAN?

The court and some stakeholders were concerned that the program would delay the foreclosure proceedings unnecessarily. The data show that those cases that completed the program did so in about 3.4 months. Those that returned to court without completing the program took on average two months to do so. The average for all cases is 91 days. This is similar to other programs in this study, but much shorter than some programs outside of Illinois.²⁶ The data

²⁶ For example, in Connecticut, the average time in program is 484 days. See, Gloria Jean Gong and Carl Brinton, [CONNECTICUT JUDICIAL BRANCH FORECLOSURE MEDIATION PROGRAM](#) (October 2014). In Maine, the time in program averaged between 131 and 173 days. See, Laura S. Pearlman, [FORECLOSURE DIVERSION PROGRAM: REPORT TO THE JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL AFFAIRS AND THE JOINT STANDING COMMITTEE ON JUDICIARY](#), Maine Administrative Office of the Courts (February 13, 2014).

also show that the cases were moving through the system within the timeframes envisioned by the court.

Participant Experience

Pre-Mediation Session Questionnaires

The housing counselors did not distribute post-session questionnaires to the homeowners, so there is no information on their experience with housing counseling.

Mediation Session Questionnaires²⁷

Most participants had a positive experience with mediation. Most felt they could talk about their issues and concerns, all felt the mediator understood what was important to them, and most were satisfied with their experience and felt they were treated fairly and with respect. However, lenders and lender attorneys were slightly more likely to feel that they were able to talk about what was important to them, to be satisfied with their experience and the outcome of their mediation, and to believe the mediation process was very fair.

Procedural Justice

The court wanted homeowners, in particular, to have a positive experience in the program. That is, it wanted a process in which homeowners felt they were treated with dignity and that they had some control over what was happening to them.

For this evaluation, this was measured by whether the homeowners experienced procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system.²⁸ Its presence or lack thereof has a significant impact on parties' satisfaction with the justice system and their perception of its fairness. Research has found that the most important characteristics of procedural justice are voice (the sense that one's voice has been heard in the process) and respect (the sense that one's feelings, ideas, and positions have been treated with respect in the process).²⁹

²⁷ Survey Method & Response Rate:

The mediators handed the questionnaires to participants at the end of each mediation session and then left the room while the participants completed them. Since lender representatives were on the phone, lender attorneys asked them the questions and completed the questionnaires for them. When participants responded more than once because they attended more than one session, the earlier responses were removed in order to reduce bias.

In all, 74 homeowners in 50 cases completed the questionnaires. This means that homeowners responded in 61% of the 82 mediated cases. Lender representatives responded in 40 cases, which is a 49% response rate. Lender attorneys responded in 50 cases, matching the homeowners' 61% response rate. Twenty-three homeowner attorneys responded.

²⁸ Alan E. Lind, "In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System," *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

²⁹ *Id.*

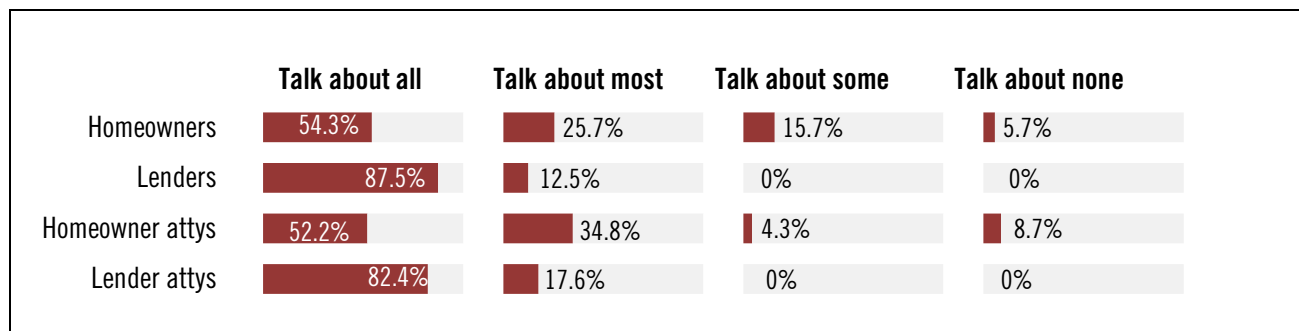
In the questionnaires, voice was measured as the homeowners' feeling that they were able to talk about what was most important to them and how much they felt the mediator understood what was important to them. The questionnaires also asked whether the homeowners felt they were treated with respect by the mediator. As another measure of whether they felt they experienced procedural justice, the questionnaires asked fairness questions.

Homeowners felt they had an experience of procedural justice

Most homeowners felt they had voice in that they were able to talk about their issues and concerns, and that they felt the mediator understood what was important to them. All but one felt respected and all but two felt they were treated fairly. Most felt they were treated with very much respect and very fairly.

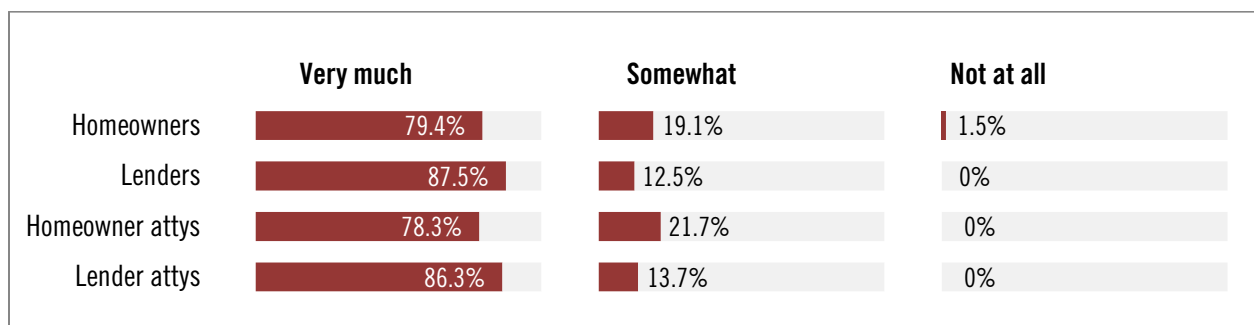
Were you able to talk about the issues and concerns that were most important to you/your side?

Slightly more than half of the homeowners and homeowner attorneys felt they were able to talk about everything that was most important to them. Another 26% of homeowners felt they were able to talk about almost everything that was important to them.



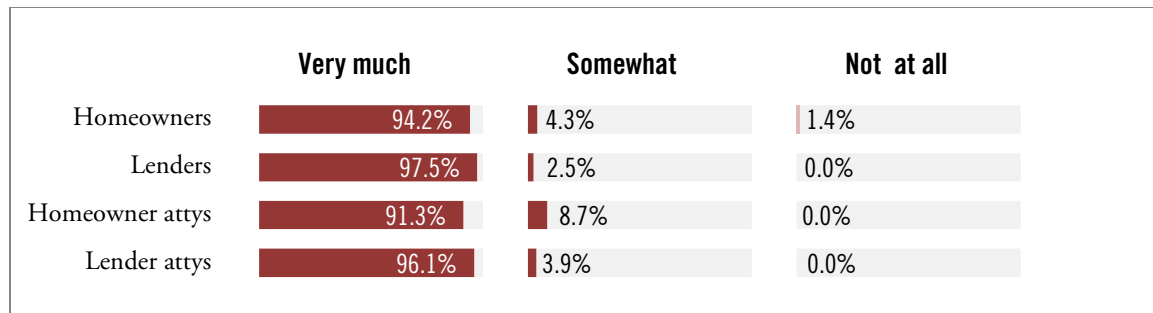
How much did the mediator understand what was important to you/your side?

All but one person said the mediator at least somewhat understood their side.



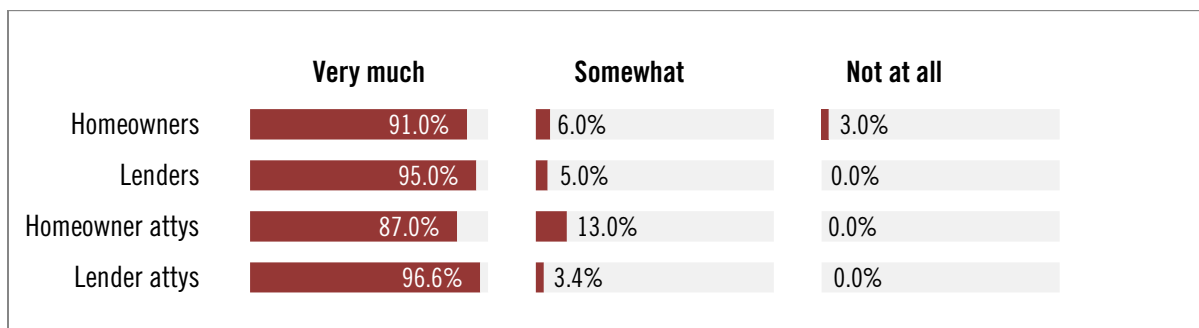
Did the mediator treat you with respect?

All but one participant felt they were treated with respect. Almost all felt they were “very much” treated with respect.



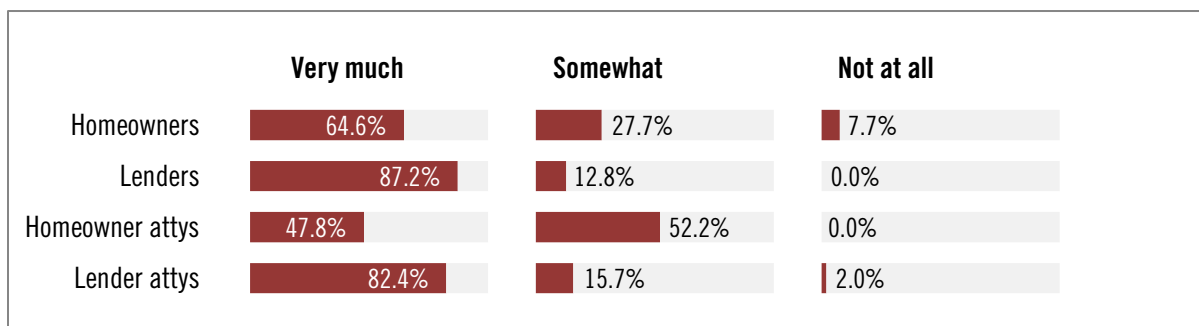
Did the mediator treat you/your side fairly?

All but two participants felt they were treated fairly. Most felt they were treated very fairly.



Was the mediation process fair?

Homeowners were more likely to believe they were treated fairly than to believe the process was fair. Nonetheless, almost all believed the process was at least somewhat fair.



The homeowners' comments indicate that their sense of procedural fairness often was colored by the actions of the lender. Almost all who commented negatively about their lender selected "somewhat" or "not at all" for their response to whether the process was fair. Comments included:

- "There was not a mediation. [Lender] had decided options for us before we arrived."
- "Dictatorship – no mediation took place – complete inflexibility on the part of [Lender]".

- “No habo un dialogo solo el banco dio sus opciones y sus reglas.” [There was no dialogue – the lender only gave its options and its rules.]
- “Lender came unable to make changes to offer. All or nothing kind of options only. I would have appreciated some movement possible to resolve things here and now instead of lengthy appeal process without verified guarantees.”
- “It was not a mediation and was falsely marketed. It was a one way take it or leave it meeting.”

WHAT DOES THIS MEAN?

The mediators are providing a procedurally just process to all parties. Importantly, they are providing a voice to homeowners and treating them with respect, which the judges said was missing with the homeowners’ interactions with their lenders. Nonetheless, some homeowners have left the mediation feeling they were not treated fairly by their lender. They appeared to have had expectations of being able to negotiate more freely than might have been possible given the lenders’ constraints.

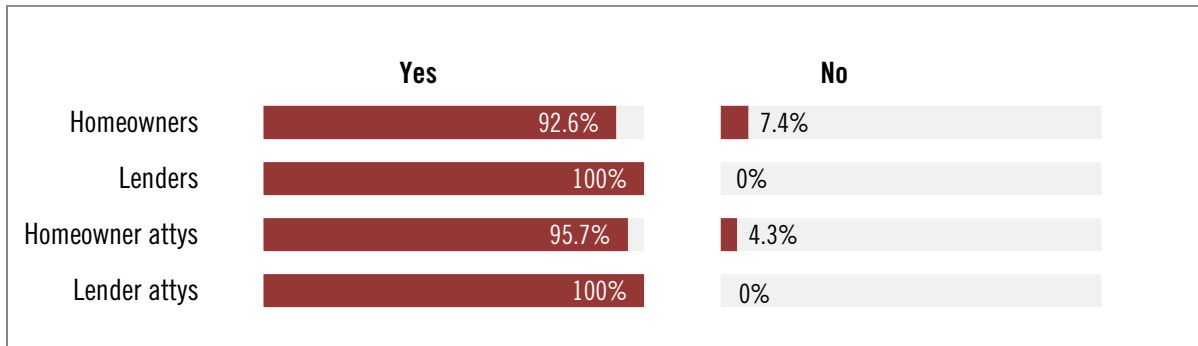
⇒ **Recommendation:** The homeowners’ comments indicate there may be a need to manage homeowner expectations. In foreclosure mediation, the lenders are often constrained in their negotiations by investor regulations and the homeowner’s financial situation. If homeowners are entering the mediation believing they will be negotiating more than is possible, they will be disappointed with their experience. Generally, the housing counselor or the homeowner attorney performs this function. Since a significant number of homeowners in this program do not meet with housing counselors, the program should figure out how those homeowners can best learn about what to expect in mediation. The program should also ensure that program partners are setting those expectations correctly.

Mediator Skills

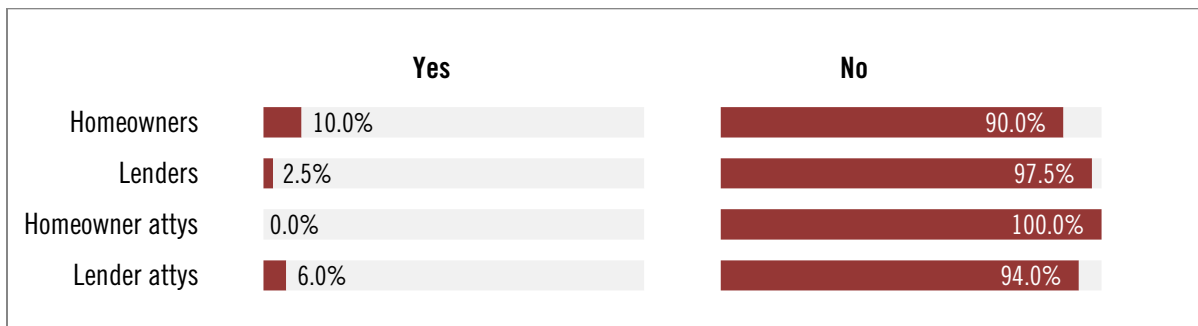
The mediators are seen as helpful and not coercive

Effective mediation requires a mediator who walks a fine line between being actively involved in assisting the parties without pushing them into a result they do not want. The results show that the parties felt these mediators walked that line.

Was the mediator active enough in helping you to work out the issues in the dispute?



Did the mediator push you too hard to get you to settle?



Would you use this mediator again?

This question is asked as another measure of the mediator's ability. Since homeowners do not have the experience necessary to answer this question knowledgeably, only the attorneys were asked this question. The majority of attorneys said would definitely use their mediator again; however, a significant number had reservations about doing so.

| | Use Mediator Again | | | | | |
|-----------------|--------------------|-------|----------|-------|----|------|
| | Yes | | Possibly | | No | |
| | # | % | # | % | # | % |
| Homeowner Attys | 21 | 91.3% | 2 | 8.7% | 0 | 0% |
| Lender Attys | 40 | 78.4% | 9 | 17.7% | 2 | 3.9% |

In response to why they would use the mediator again, the attorneys recognized a mediator's skill and neutrality:

- "She listened to both sides without picking sides or playing favorites."
- "Laid out problem/issue and was neutral"
- "She was very good at identifying issues and keeping the conversation on point."
- "He was very nice and fair to both parties. He helped organize the mediation."

The two lender attorneys who indicated they definitely would not use the mediator for their case again said:

- “Pushed hard on issues that were not relevant to discussion, asked questions that were not relevant, and asked numerous times for explanation on something that was legal advice when I explained I couldn't give legal advice, he said it wasn't.”
- “I thought he was insensitive as to the personal problems of the defendant (other side). He offered inappropriate legal advice.”

WHAT DOES THIS MEAN?

The participants felt, in most cases, that the mediator was actively helpful in resolving the dispute while not pushing too hard to get them to settle (a sign that they are violating self-determination, one of the main principles of mediation). In most cases, the attorneys would use the mediator again, although lender attorneys were not as positive in their assessment of the mediators.

⇒ **Recommendation:** The attorneys, and in particular the lender attorneys, have significant experience with mediators, which makes them reliable judges of a mediator's skill.³⁰ That the lender attorneys had reservations about the mediator in 11 of 51 cases merits examination. Further, the uneven skill of the mediators in the 16th Circuit was brought up individually by the program coordinator, the Chief Judge and the lender attorneys who were interviewed about their experience with all the programs.

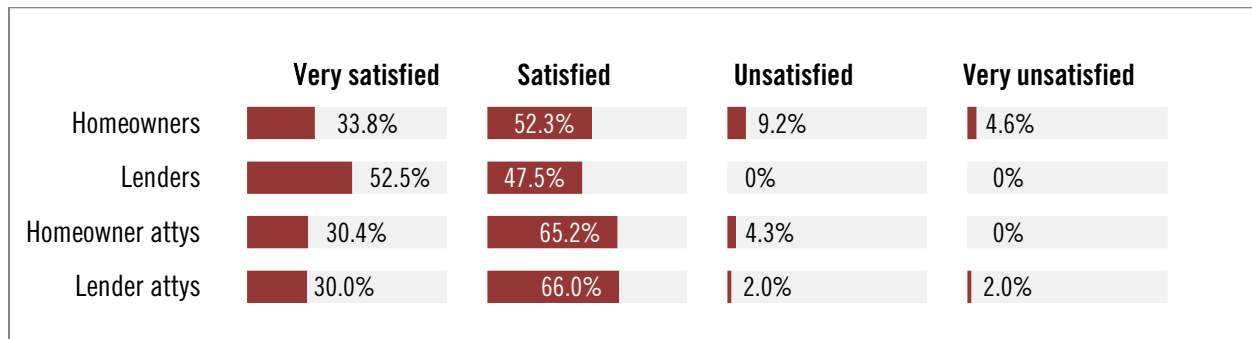
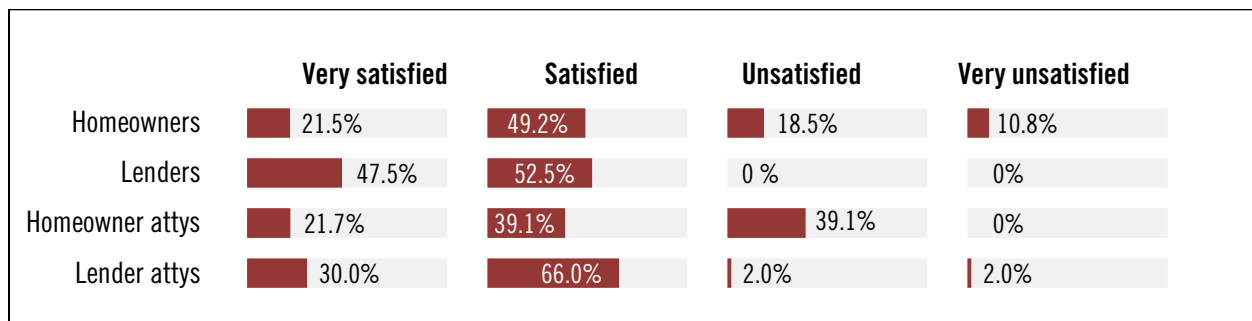
The program has taken steps to address this issue. These steps include the program coordinator debriefing the mediators after each session, the program providing a supplemental skills training to the mediators and the court and program developing procedures for mediator improvement and dismissal. The program should continue to monitor and address any issues with the mediators.

Satisfaction

Almost all participants were satisfied with their experience in mediation

The majority (55%) were “satisfied” with their experience, while 35% were “very satisfied.” Fewer were satisfied with the outcome of mediation. Lenders had the highest level of satisfaction.

³⁰ Research has demonstrated this is the case. See Roselle Wissler and Robert W. Rack, “[Assessing Mediator Performance: The Usefulness of Participant Questionnaires](#)” JOURNAL OF DISPUTE RESOLUTION, p. 229 (2004).

How satisfied are you with your overall experience in the mediation session?*How satisfied are you with the outcome of the mediation?*WHAT DOES THIS MEAN?

Overall, the homeowners were satisfied with their experience. As expected, they were less satisfied with the outcome. Satisfaction with the outcome in mediation is often tied to whether the parties come to agreement. Given the 53% agreement rate in mediation, the fact that 70% of homeowners were satisfied with the outcome indicates that some homeowners saw value in the process beyond keeping their home or obtaining an agreement.

Participant Comments

Participants, in general, praised the forum and the mediators, and complained about the other side when writing comments.

Homeowners

Only a few homeowners commented about their experience. Those who did mention what they liked about it said the following:

- “Complete understanding and fairness.”
- “Opportunity to talk.”
- “Gave us clear understanding of options.”
- “A lot better forum to discuss options back and forth.”

- “Very friendly, helpful, and focused.”
- “I liked the mediator’s involvement.”
- “Very informal setting – not so scary.”
- “Exchange of information.”

Homeowners who mentioned what they did not like most often mentioned the lack of compromise, as noted above. The others were focused on the behavior of the lender or lender attorney.

- “[Lender] attorney was a bit rude (in my opinion) to our attorney.”
- “Hostility from [lender attorney] for attending the final mediation. As the homeowners, we followed through with the entire mediation. Should not be treated with hostility for asking for opposing party to follow through. It is her job.”
- “Uninformed, unprepared plaintiff – for the second time.”
- “The fact that [lender] was emailing our attorney to get info and the email kept coming back – could they not pick up a phone to verify the email? Anything I didn’t like was all on [lender] – not the mediation.”
- “[Lender] was unprepared.”

Lenders

Very few lenders commented on their experience. One appreciated the mediator’s impartiality. For the three who commented on what they did not like, it was the length of the process that bothered them. One did not like how long it took to get through pre-mediation. Another complained about not receiving the homeowner’s loan modification packet through Hope LoanPort. The third did not like having to return for a third session to wrap everything up because the homeowner did not cancel it.

Homeowner Attorneys

Most homeowner attorneys who commented on what made the mediation effective focused on the ability to communicate:

- One said it was “respectful.”
- “It was helpful to have a representative from all parties and a common goal.”
- “Parties with authority participating in mediation process.”
- “Organization, opportunity to discuss issues.”
- “Concise breakdown of issues.”
- “The bank came to the table with a loan modification offer.”

In response to the question about what could be improved, three homeowner attorneys wanted the lenders to be more flexible:

- “If the banks representative had more power, more knowledge, and access to more information.”

- “The bank being more willing to negotiate on terms of a modification.”
- “Need individuals from lender who seriously are looking to mediate their issues, interest of lender policies.”

Two wanted information to be available sooner:

- “All information already submitted and potential resolution within horizon.”
- “Prior knowledge of the specific issues.”

Lender Attorneys

Lender attorneys pointed to the mediators and the quality of the discussion as what made the mediation effective:

- “Enough time to discuss all the issues.”
- “Both parties were able to express their concerns and what the options were.”
- “The mediator kept the parties on track.”
- “The mediators were very neutral and listened to both sides.”
- “Everyone was professional.”

When talking about what could be improved, the lender attorneys focused on issues with the opposing party:

- “Better pre-screening, the borrower didn’t understand a lot of the terms/options available. If he had met with a housing counselor beforehand it probably would have saved a lot of time and better prepared him to make a decision.”
- “Had the borrower submitted the documents needed, the bank could have, perhaps, offered DIL [“Deed in lieu”] or Short Sale Options.”
- “Opposing counsel was angry, but the mediation itself was fine.”

Participant Characteristics

Given that the foreclosure crisis has hit Black/African-Americans and Latinos particularly hard,³¹ it is a concern that the racial and ethnic makeup of those who participate in and complete the programs be similar to the racial and ethnic makeup of the county they serve.³² Further, there is a general interest in knowing whom the programs are serving.

³¹ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#), Center for Responsible Lending (June 18, 2010).

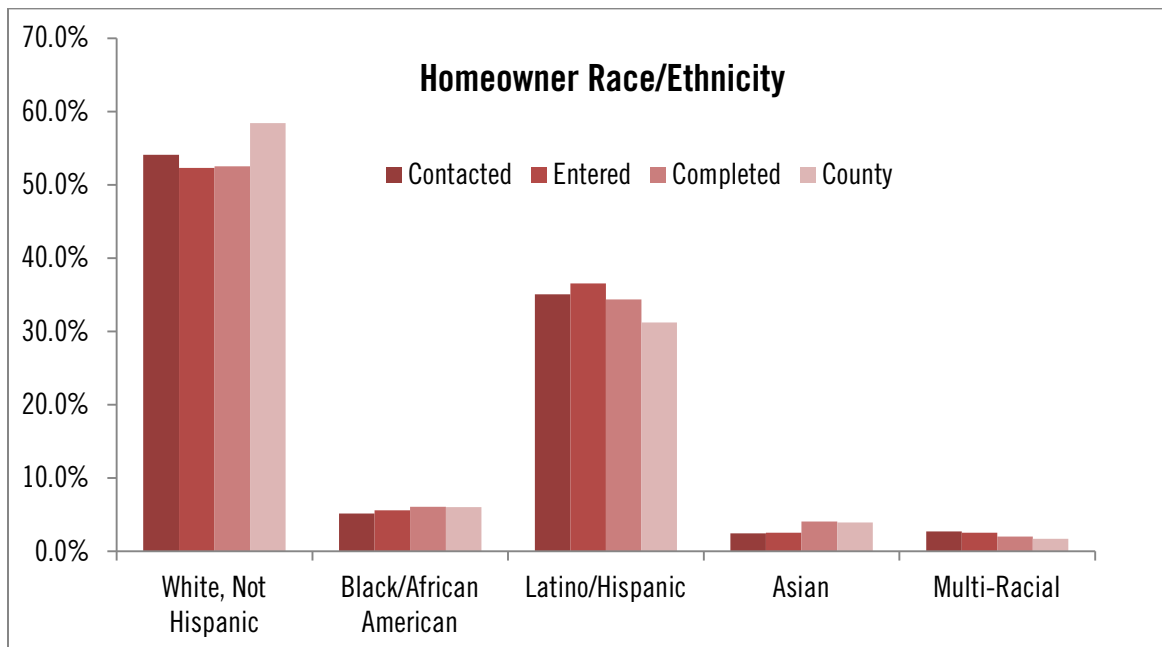
Hall, Matthew, Kyle Crowder, Amy Springer. “Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions,” *AMERICAN SOCIOLOGICAL REVIEW* (April 2015).

³² Because there is no accurate data on individual homeowners facing foreclosure in Kane County, the racial and ethnic makeup of the county is used instead of the racial and ethnic makeup of those facing foreclosure.

RACIAL/ETHNIC MAKEUP OF PARTICIPANTS³³**The program is serving all races and ethnicities equally**

Latinos participated at a slightly higher rate than are represented in the county, and Non-Hispanic Whites participated at a lower rate. Neither difference is significant. Of greater importance to the running of the program, there was no significant decline in minority participation as the homeowners progressed.

| Homeowner Race/Ethnicity | | | | |
|---------------------------------|------------------|----------------|------------------|---------------|
| | Contacted | Entered | Completed | County |
| White, Not Hispanic | 54.1% | 52.3% | 52.5% | 58.4% |
| Black/African | 5.1% | 5.6% | 6.1% | 6.0% |
| American Latino/ | 35.0% | 36.5% | 34.3% | 31.2% |
| Hispanic Asian | 2.4% | 2.5% | 4.0% | 3.9% |
| Multi-Racial | 2.7% | 2.5% | 2.0% | 1.7% |

**WHAT DOES THIS MEAN?**

The program is doing a good job of bringing homeowners of all races and ethnicities into the program and then serving them equally once they enter.

³³ The race or ethnicity is for the primary homeowner. Only two cases included homeowners of different races or ethnicities.

INCOME LEVEL OF PARTICIPANTS

Most participants had a household income below the median for Kane County (\$53,000). Not surprisingly, those with an income less than \$20,000 were less likely to complete the program than those with a higher income.

| Homeowner Household Income | | | |
|----------------------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <\$20,000 | 18.2% | 16.8% | 11.6% |
| \$20,000 - \$34,999 | 27.2% | 24.7% | 23.2% |
| \$35,000 - \$49,999 | 20.1% | 20.0% | 22.1% |
| \$50,000 - \$74,999 | 18.5% | 21.1% | 24.2% |
| \$75,000 - \$99,999 | 8.0% | 8.9% | 10.5% |
| \$100,000-\$149,999 | 4.9% | 4.2% | 5.3% |
| \$150,000+ | 3.1% | 4.2% | 3.2% |

WHAT DOES THIS MEAN?

Homeowners with an income less than \$20,000 would be the least likely to qualify for a loan modification, and, therefore, would more likely stop participating in the program prior to completion.

AGE RANGE

Most participating primary homeowners³⁴ were in their 40s and 50s. There is a clear drop off in homeowners who contacted the program versus those that completed the program for homeowners in their 50s, with only 20 of 132 entering and then completing the program. This is not a pattern seen in other programs.

| Homeowner Age Range | | | |
|---------------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <30 years | 2.4% | 2.6% | 3.1% |
| 30-39 | 18.0% | 18.4% | 22.7% |
| 40-49 | 30.3% | 31.1% | 29.9% |
| 50-59 | 31.8% | 27.0% | 20.6% |
| 60-69 | 13.8% | 17.9% | 21.6% |
| 70-79 | 2.7% | 2.0% | 1.0% |
| 80+ | 0.6% | 1.0% | 1.0% |

³⁴ Primary homeowners are the homeowners who are designated as the first homeowner by the program.

Discussion and Recommendations

The 16th Circuit program is doing well at moving homeowners into the program. This is done through a hybrid model that tells the homeowners they must call the program coordinator by a particular date, gives the homeowners a one-on-one orientation to the program and what it can offer them for their particular situation, and keeps barriers to participation relatively low. Once homeowners enter the program, they are less likely than other programs to complete their documentation by the required deadline. Those who did complete the program were likely to avoid foreclosure, particularly because the program benefitted a large number of homeowners who did not want to keep their homes. Participants also had a positive experience in the program, and indicated that they were treated fairly and with respect.

BENEFIT OF HYBRID MODEL

The 16th Circuit decided on a program model that encourages participation by all homeowners by calling the program “mandatory” and instructing the homeowners to call the program coordinator for an initial conference. The initial conference allows the program coordinator to discuss the benefits of participating in the program and to build rapport with the homeowners. This has had the effect of bringing more homeowners into the program than the multi-step entry programs. This is particularly true with homeowners who did not want to keep their home. More homeowners who had the goal of exiting their home participated in the 16th Circuit program than any other Attorney General-funded program. Mediation benefitted those homeowners who completed the program, with 10 of 14 reaching agreement for an option that avoided foreclosure.

RECOMMENDATION: Continue the hybrid model. Continue instructing homeowners that they must contact the program coordinator. Continue the initial conferences. Continue to encourage homeowners who do not want to keep their homes but want a graceful exit to participate in mediation.

BENEFIT OF LOW BARRIERS TO ENTRY

The program also has low barriers to entry, which further encourages participation. The only hurdle to entry is to file a court appearance. While this has been a barrier that more than 40 homeowners did not overcome, the program enjoys a low drop off between contacting the program coordinator and entering the program when compared to other programs. Further, the court and program have worked to lower this barrier by facilitating the filing of the court appearance. This model for encouraging participation has worked well – the 16th Circuit has a 5% higher participation rate than the highest multi-step entry program.

RECOMMENDATION: Continue to facilitate homeowner filing of the court appearance.

NEED FOR SECOND OPPORTUNITY TO PARTICIPATE

While the program has been more successful at encouraging participation than the multi-step entry programs, it still has room for improvement. In the 16th Circuit, only five cases were referred by judges during the first year. Thus, despite having a rule that allows judges to refer cases, the judges are not doing so. There are benefits to offering the homeowners a second opportunity to enter the program. As a judge for another program said, homeowners often do not respond to their situation until they receive notice of default judgment. The 20th Circuit, in which more than half of homeowners were referred into the program by the judge, has [had significant success with these second opportunities](#).

RECOMMENDATION: Offer more homeowners a second opportunity to participate by referring those who missed the initial deadline into the program. Referrals should be made for those homeowners who have shown they have tried to work with their lender in the past.

ISSUE OF NOT COMPLETING PACKET

Once homeowners entered the program, only 44% completed the program. Most who did not complete the program – 73% – did not complete their packets within the required timeframe, despite the program coordinator often extending the deadline by 30 days. This is a higher percentage than for other programs.

It is unclear why this is the case. It could be an artifact of the ease of entry: because it is easy to enter the program, unmotivated homeowners might be more apt to enter and then leave without completing it, whereas the higher barriers to participation in other programs may weed out unmotivated homeowners before they enter the program. Nonetheless, it seems odd that unmotivated homeowners would file a court appearance, with the \$167 filing fee, and then not complete their packet. This may point to homeowners exiting the program without completing it for another reason.

One possibility is that homeowners stop participating once they find out that they most likely will not qualify for a loan modification. Since more homeowners enter the program, it is probable that more of them do not have the requisite income for a loan modification than in the multi-step entry programs.

Another possibility is the process for obtaining housing counseling: This is the only program in which housing counselors are not involved at the initial step for entering the program. The program coordinator has noted that this creates confusion, with homeowners not really understanding that they need to contact the housing counseling agency, which may lead them to fall between the cracks.

A third possibility is that because housing counseling is voluntary, homeowners who elect not to avail themselves of this service find they are unable to complete their packet on their own. A common theme from interviews with program staff is that helping homeowners to complete their packets and then facilitating document exchange requires a lot of assistance to the homeowners. This is the only

program that does not provide that help to all homeowners. This is all conjecture, however, and should be examined more deeply.

RECOMMENDATION: The program may want to investigate why homeowners do not complete their packets on time and then address any issues that are discovered. This could include an examination of individual cases in which the homeowners left the program without completing it. The case records in the online case management system include extensive notes for many cases that might provide clarity.

RECOMMENDATION: The program should also consider a way to better connect homeowners with housing counseling services after they complete the initial conference with the program coordinator. One suggestion is to expand opportunities for homeowners to participate in pre-screening workshops, where they complete intakes, file the court appearances and get housing counseling in one meeting. These workshops are currently held once a month and attendance to each is limited to four homeowners. If resources allow, the frequency of these workshops should be increased.

It is also important to develop a closer and more collaborative relationship with housing counseling service providers, ensuring that counselors understand and can communicate with homeowners about the benefits and legal protections the mediation program can provide, beyond the normal modification and lender negotiation process offered in housing counseling.

PROGRAM COMPLETION LEADS TO FORECLOSURE AVOIDANCE

Almost two-thirds of homeowners who complete the program – who comply with all the program deadlines and appearances and are able to negotiate with their lenders – avoid foreclosure. Half keep their homes. This is a similar rate of foreclosure avoidance of the other Attorney General-funded programs, as well as other programs around the country.

PARTICIPANTS HAD A POSITIVE EXPERIENCE

As important as how many homeowners avoid foreclosure, if not more so, is whether homeowners have a positive experience in the program. Homeowners' responses show that they feel they are being treated with respect and that they are being treated fairly. A few remarked on the poor behavior of the lender representatives or attorneys, which may have led them to have a less positive experience; however, the majority who responded to the questionnaire appeared to be having the experience that the court wanted them to have when it created the program – a more humanized experience in which they were able to communicate with their lender.

EXPECTATIONS MAY NEED TO BE MANAGED

A minority of homeowners were upset about the lack of compromise in mediation. This may point to the need to manage their expectations prior to mediation. While foreclosure mediation is a good forum for exchanging information and discussing options, much of what a lender can offer is

constrained by investor regulations and the financial situation of the homeowner. If the homeowners have different expectations, they may be more disappointed with the mediation than if they understand the constraints beforehand.

RECOMMENDATION: Since managing expectations is a role often played by housing counseling, the program should try to increase the number of homeowners who receive counseling. This likely would require additional funding for the housing counseling agencies to support their role in the program.

MEDIATOR SKILLS

The participants in general gave high marks to the mediators. Participants said that mediators were helpful while not being coercive and they treated the parties fairly and with respect. Nonetheless, in 11 cases, the lender attorney did not say they would definitely use the mediator again.

RECOMMENDATION: Continue having the program coordinator debrief with the mediator after mediation sessions, reviewing the questionnaire feedback. For mediators against whom there are complaints or for when there are poor marks on questionnaires, discuss mediator performance with the Chief Judge to decide if the mediators should be required to conduct more co-mediations or should be dismissed from the program.

ALL PARTICIPANTS ARE BEING SERVED EQUALLY

The racial and ethnic makeup of the homeowners who enter the program is similar to that of the entire county. This points to homeowners of all races and ethnicities participating equally. When they enter, they have a statistically equal chance of completing the program, which demonstrates that they are being treated and served equally once they enter the program.

Conclusion

The 16th Judicial Circuit Mortgage Foreclosure Mediation Program is successfully serving more homeowners than any other program. Its model provides the benefits of relatively easy entry into the process, and the participants feel they are being treated fairly and with respect, although there are concerns about some mediators. This program loses participants at a proportionately higher rate than other programs, but there is no racial or ethnic bias in who completes the program or leaves before doing so. The most important change this program can make would be to determine why homeowners leave the program and institute changes to help a larger number of homeowners to complete the program.

17TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Winnebago and Boone Counties

Overview

| | |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch Date | Winnebago County: June 1, 2014; Boone County: November 1, 2014 |
| Program Size | Approximately 199 participating cases per year (116 entered the program between June 1 and December 31, 2014) |
| Type | Multi-step entry |
| Entry Process | Submit application online or in HC* office, schedule HC session |
| Intake | By housing counseling agency after application submitted |
| Pre-mediation | 1-2 HC sessions to determine viability for retention option and complete packet , possible status session with PC* to facilitate doc exchange |
| Mediation | Unlimited mediation sessions allowed by rule; generally 2, in practice |
| Remain in Program During TPP?* | No, unless parties and PC agree |
| Homeowners Fee | None |
| Timing of Foreclosure Stay | Date HO* completes application until end of TPP |
| Lender Additional Filing Fee | \$65 |
| Mediator Payment | \$250/case |
| Program Staff | 1 full-time program coordinator |
| Program Rule | Rule 2.14: Residential Mortgage Foreclosure Mediation Program |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- The [homeowners](#) complete an online application in order to enter the program
- The housing counselor refers the homeowners on to mediation only if her preliminary review of their financial situation shows that the homeowners have a viable chance at obtaining a loan modification
- The program coordinator sometimes holds phone conferences with the homeowner, [lender](#) representative and lender attorney to facilitate [document exchange](#)
- Judges often refer cases filed prior to the launch date into the program

*HC = housing counseling HO = homeowner PC = program coordinator TPP = trial period plan

STATISTICS AT A GLANCE

The program served 116 homeowners in its first seven months, making it the second largest program.

| Status of Cases as of December 31, 2014 | |
|-----------------------------------------|-----|
| Foreclosures Filed | 641 |
| Contacted Program | 145 |
| Entered Program | 116 |
| Closed | 73 |
| Pending | 43 |

The program helps more than 60% of homeowners.

| Program Impact | |
|----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 20.4% |
| Foreclosure Avoided* | 6.2% |
| Homes Retained* | 6.2% |

*Projected numbers based on closed cases.

More than $\frac{3}{4}$ of homeowners who completed the program kept their homes. However, more than 60% left before meeting with their lenders.

| Outcomes of Closed and Completed Cases | | | |
|----------------------------------------|----|-------------------|----------------------|
| | # | % of Closed Cases | % of Completed Cases |
| Agreement: Retention /TPP | 22 | 30.1% | 75.9% |
| Agreement: Relinquishment | 0 | 0% | 0% |
| No Agreement | 7 | 9.6% | 24.1% |
| Closed: Program Not Completed | 44 | 60.3% | N/A |

On average, it took less than 3 months to achieve an outcome – the second shortest time to completion of all programs.

| Average Number of Days in Program | |
|------------------------------------------|----|
| Filing to Close – All Cases | 72 |
| Program Entry to Close | 48 |
| Program Entry to Close – Completed Cases | 80 |
| Program Entry to Close – Not Completed | 28 |

All homeowners left their session with the housing counselor with a better understanding of their options and how to work with their lenders.

| Pre-Mediation: Homeowner Experience (n = 63) | |
|-------------------------------------------------------|------|
| Understand Options Better Than Before | 100% |
| Understand How to Work with Lender Better Than Before | 100% |
| Satisfied Overall | 95% |

Mediation participants had overwhelmingly positive responses to the process.

| Mediation Participant Experience | | |
|----------------------------------|----------------|-------------------|
| | Party (n = 40) | Attorney (n = 43) |
| Satisfied Overall | 93% | 100% |
| Satisfied with Outcome | 85% | 97% |
| Process was Fair | 97% | 100% |

IMPORTANT FINDINGS

76% of homeowners who completed the program saved their homes

This is the highest rate of all the programs. The high rate is most likely due to the removal from the program of those who are not viable for a loan modification.

Almost all homeowners had a positive experience with the program

More than 95% of homeowners were very satisfied with their housing counseling session and 93% were satisfied with mediation. They overwhelmingly felt they were treated fairly and with respect by the housing counselor and the mediator.

All homeowners who enter the program gain understanding about their situation

The court's goal for the program that homeowners better understand what their situation is and how to best move forward is being met, with 100% of homeowners saying they have a better understanding of their options for their homes and a better understanding of how to work with their lender, the great majority of whom said they gained "very much" understanding.

16% of homeowners who entered the program were found not to have a viable possibility of obtaining a loan modification

This accounts for 41% of homeowners who did not complete the program. This shows how much influence the viability factor can play in other programs when looking at participation and agreement rates.

Homeowners of all races/ethnicities were served equally

The race/ethnicity of homeowners who participate is similar to their representation in the circuit as a whole. There is no proportional drop off in participation among Black/African-Americans or Latinos as the progress through the program.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO MEET?

The circuit decided to establish a foreclosure mediation program after the judges hearing foreclosure cases found that a significant minority of homeowners were doing everything they could to try to save their homes, but were unable to because they could not effectively communicate with the lender. They did not have one person designated to talk to at the lender institution and each person they talked to told them they needed to provide different documents. Often, the documents were lost, and by the time their [loan modification packet](#) was reviewed, the information was too old and the homeowner had to start a new packet.

At the same time, homeowners did not understand their situation and, as a result, were spectators in a process that was very important to their life. The program was conceived as a way to increase the homeowners' understanding and foster better communication between the lenders and homeowners.

By doing this, the program would give homeowners who were making an effort to save their homes the possibility of achieving that goal.

PROGRAM ADMINISTRATION

This program is administered by Resolution Systems Institute. The program is managed by a full-time program coordinator who is an employee of RSI.³⁵ The program partner is HomeStart, a HUD-certified housing counseling agency. HomeStart developed the online application system, conducts intake for each applicant, and conducts a pre-mediation session to determine the homeowners' viability for a loan modification and to inform homeowners about the [foreclosure](#) process and their options for their home. A panel of 13 private mediators that was trained in foreclosure mediation by RSI conducts the mediations.

ELIGIBLE CASES

Homeowners whose cases were filed on or after June 1, 2014, in Winnebago County, or November 1, 2014, in Boone County, can choose to enter the program if the home is their primary residence or they have the right to return. Additionally, the judge can order older cases into the program. This is done frequently.

NOTIFICATION AND OUTREACH

Homeowners receive information on the program with their [summons](#). The program coordinator also sends them a postcard reminding them of the program, and letting them know the deadline for applying to enter it.

The program has a [website](#) with information about foreclosure mediation. In addition, the court held a press conference when the program was expanded to Boone County.

ENTRY PROCESS

The homeowners have 21 days from receiving their notice of summons to complete an online application on the program's website. This site was developed and is maintained by HomeStart, the HUD-certified housing counseling agency that works with all foreclosure mediation cases in Winnebago and Boone counties. During those 21 days, HomeStart contacts the homeowners up to three times, if necessary, to remind them of the deadline and ask if they need assistance with their application. The housing counselor can do this because the homeowners provide an email address as soon as they log in to begin their application.

The application includes detailed financial and personal information that allows the housing counselor to assess whether the homeowners have the financial resources to obtain a loan modification or other home [retention](#) option. Once the homeowners have completed the application, HomeStart informs the court and the foreclosure process is stayed.

³⁵ The program coordinator was originally part-time, but was increased to full-time status in November 2014 due to high program demand.

PROGRAM PROCESS

Pre-Mediation Phase

After completing the application to enter the program, the homeowners contact HomeStart to set up a housing counseling session at the agency's office, which is supposed to take place within 30 days. The homeowners are asked to submit all the documentation needed for the loan modification one week before their housing counseling session; however, many do not do this and arrive for their pre-mediation session with their documents. If the homeowners do not contact HomeStart, the housing counselor contacts the homeowners up to three times, if necessary, to remind them of the deadline for completing their session and what they need to do.

During the housing counseling session, the housing counselor lets the homeowners know whether their financial status makes them viable for a loan modification. Based on this information, they discuss what the homeowners' goal is for their home, and the housing counselor helps them determine a Plan B in case the lender does not agree to that goal. If the homeowners are viable for a loan modification, the housing counselor refers them to mediation. If they are not viable for a loan modification, the counselor offers them other services. These include further housing counseling with another counselor at the agency, or referral to an attorney or a real estate agent if the homeowners' situation warrants those services. The housing counselor then informs the court whether the case is continuing in the program or is being returned to court to continue the foreclosure process. The stay is lifted from the case at this time.

The housing counselor helps those homeowners referred to mediation to complete and submit their loan modification packets. She also describes the mediation process and sets the homeowners' expectations for the first session by telling them it might not end with an answer from the lender about whether they will be offered a loan modification. This all generally takes an hour and a half to two hours.

Mediation Phase

Once the case is referred to mediation, the program coordinator schedules the first session for 30 to 45 days from referral (which is the day of the housing counseling session). During that time, the exchange of documents between the homeowner and the lender continues, with both the housing counselor and the program coordinator working to facilitate the exchange.

If the document exchange is not completed a week before the mediation session, the program coordinator will ask the mediator, and then the parties, whether they would prefer to have a status conference by phone, instead of a full mediation, if she believes the circumstances warrant it. If they do not all agree to a phone conference, the mediator holds a regular mediation session. In almost all cases, a second mediation session is needed in order to get to the point at which the lender and homeowners have both done what they have to do in order for the lender to determine whether to offer a [temporary loan modification](#) or other home retention option. A third session is conducted at the end of the trial period plan in order to facilitate the conversion to a permanent loan modification or to discuss possible [relinquishment](#) options if the conversion will not take place. If the mediation

session is confined to the facilitation of the exchange of documents, it takes about 40 minutes. If the parties are able to talk about options, the session takes about an hour to complete. Mediation sessions take place at the Winnebago County Alternative Dispute Resolution Center, which also houses the foreclosure mediation program administrative office.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The housing counselor determines that the homeowners most likely will not qualify for a loan modification
- The homeowners do not complete the required documentation within 30 days of completing their application to enter the program
- The homeowners do not appear for the housing counseling session
- The homeowners decide to withdraw from the program
- The homeowners and lender do not agree on the terms of a temporary loan modification or other retention option

Cases are returned to court for dismissal, if the parties agree to a retention option other than a temporary loan modification. When the lender and homeowner agree to a temporary loan modification, the case is terminated from the mediation program and returned to court for final disposition. The foreclosure stay remains in place until the end of the loan trial period, at which point the case is dismissed, if the temporary loan modification is converted to a permanent one, or the stay is lifted and the foreclosure process continues, if the loan modification is not converted.

Judge and Program Administration Perspectives

The presiding judge, the program coordinator and the housing counselor who meets with all homeowners who enter the program were each interviewed to obtain their perspectives on the program.

WHAT IS WORKING WELL?

The presiding judge believes the process is doing what it is supposed to do. Increasing homeowners' understanding of their situation is a main goal of the program, and all homeowners who complete an application are given the opportunity to get housing counseling that provides them with that understanding, whether they are eligible for mediation or not. Further, the process is structured so that the case moves efficiently through the system.

The program coordinator and the primary housing counselor for the program both pointed to the good communication they have with each other. They meet weekly to bounce ideas off each other, and learn a lot from these meetings. In addition, the program coordinator receives the [complaint](#), so she can screen out ineligible cases before the housing counselor meets with the homeowner.

They both believe the online application process runs very well. Its availability makes it easy for homeowners to apply, because it takes less time and energy than driving in to an office for an in-person meeting. This also helps to bring in homeowners from across the county, rather than just those homeowners who live near the housing counseling agency. Additionally, the housing counseling agency gets the homeowners' email address as soon as they log on. This allows the housing counselors to help walk the homeowners through the application process and to contact them to be sure they complete the application by the deadline.

The housing counselor points to mediation itself as a strength of the program. She sees that she is getting more outcomes and more quickly than the other housing counselors who work with cases that do not participate in the program. It helps to have the lender attorney involved to move things forward, and the homeowners appreciate being able to talk one-on-one with the lender.

CHALLENGES

For the judge, a primary challenge is managing resources and figuring out how to restructure the financial model to maintain the program when grant funds are no longer available. One way he is approaching it is by figuring out what works best so that they can keep the processes that are most effective and drop others.

Another challenge is managing the document exchange process so that it runs more smoothly. Although the process was structured so that lenders are supposed to review the homeowners' packet prior to the first mediation session, that is not always happening. The program coordinator has started conducting status sessions by phone when it is clear that the lender is not prepared for mediation. In this session, she clarifies what the lender still needs from the homeowners and schedules the mediation session.

The program coordinator noted that moving the homeowners through the packet submission and document exchange process requires a lot of case management. She and two housing counselors spend a significant amount of their time tracking the cases and shepherding them through the process. This does not stop with mediation. Even after the first mediation session, the Homestart counselors continue helping the homeowners to put together documents and distribute them to the lender attorney and the lender. The original plan was that Homestart would not be involved once the case was sent to mediation, but they found they are needed until all documents are exchanged.

Another challenge is communication between the lender and homeowners. Often, the program coordinator finds out what documents are needed before the homeowners do. This means that she needs to liaise between the lender and homeowners.

In terms of program structure, the program coordinator believes homeowners would benefit from legal services. Unfortunately, access to these services is limited in Winnebago and Boone counties for foreclosure cases. Only a few private attorneys take foreclosure cases. However, they do not provide

pro bono services. She is hoping to work with John Marshall Law School to have a clinic student provide limited legal services to homeowners.

Another structural issue is that the program cannot offer mediation to homeowners who are not viable for a loan modification. She says that some homeowners who want to relinquish their homes have expressed an interest in mediation, and she believes that participating in the program would be helpful to them.

One issue, which other programs have had as well, is what the program coordinator terms the “inflexible payment structure” for mediators. Mediators are paid on a per case basis and are only paid after they complete the case. This means that they are reluctant to conduct more than two sessions per case. She feels they should be paid after the parties reach agreement for a temporary loan modification rather than waiting for the parties to have a final session at the end of the trial payment period. She has been addressing this by conducting phone conferences when the lenders have not completed their review and by eliminating the final session at the end of the trial payment period.

The housing counselor noted the need for deadlines during the mediation process by which homeowners must submit their documents. The court rules do not include such deadlines, so the mediators would need to put them into interim agreements, in which the parties agree to what each is going to do and when they will do it before the next mediation session. According to the program coordinator, the mediators started to do this after the evaluation period concluded.

Program Characteristics

The 17th Circuit program is the second largest of the six Attorney General-funded programs, helping about 200 homeowners a year. These 200 represent about 20% of all residential foreclosures. Homeowners tended to start their applications in response to the notifications of the program that accompanies their notice of summons. However, judge referral accounts for 19% of homeowners who started applications. The cases that entered via judge referral were filed before the program start date. All other cases were filed after the program was launched. All but three participating cases were filed in Winnebago County.

SIZE OF PROGRAM

The 17th Circuit program’s annualized numbers make it the second largest program, serving about 200 homeowners per year.

| Annual Numbers* | |
|--------------------|-------|
| Foreclosures Filed | 1,099 |
| Contacted/Referred | 249 |
| Entered Program | 199 |

*These totals are projected based on the actual numbers from the program’s first seven months.

CASE CHARACTERISTICS

Referral Source

More than 60% of homeowners who start an application were prompted to do so by information they received in their notice of foreclosure mediation attached to the summons. Another 19% were referred at a later point in the case by a Winnebago County judge.³⁶

| How Homeowners Learned of Program (n=145) | | |
|-------------------------------------------|----|-----------------|
| | # | % of Applicants |
| Notice with summons | 88 | 60.7% |
| Ordered by judge | 27 | 18.6% |
| Their lawyer | 8 | 5.5% |
| Their lender | 3 | 2.1% |
| A friend or family member | 2 | 1.4% |
| An internet search | 2 | 1.4% |
| The newspaper | 1 | 0.7% |
| Other | 5 | 3.4% |
| Unknown | 9 | 6.2% |

WHAT DOES THIS MEAN?

The most effective means of informing homeowners about the program is their notice of mediation that accompanies their summons. The relatively high number of judge-referred cases is an indication of the Winnebago County judges' support of the program.

When Cases Were Filed

Almost ¼ of participating cases were filed prior to the launch of the program.

| Cases Filed Pre- and Post-launch (n=116)* | | |
|-------------------------------------------|----|--------------------------|
| | # | % of Participating Cases |
| Filed Pre-launch | 26 | 22.4% |
| Filed Post-launch | 90 | 77.6% |

*Case filed dates are only available for homeowners who complete the application and enter the program.

WHAT DOES THIS MEAN?

Homeowners who otherwise would not have had the chance to save their homes because their cases were filed prior to the program start date are being given that chance by the judges.

⇒ **Recommendation:** Judges should continue to refer appropriate cases to the program.

³⁶ Although the program expanded to Boone County in November 2014, no cases had yet been referred by Boone County judges by the end of the evaluation period.

Where Cases Were Filed

The program expanded to Boone County on November 1, 2014. From that date until December 31, only three cases filed in Boone County entered the program. These entered as a result of the homeowner responding to the notice of mediation with their summons. No Boone County judges referred cases during those two months.

Program Performance

A foreclosure mediation program's performance is based on a number of factors:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lenders
- How many of the case outcomes are positive – either retentions or relinquishments, with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|------------------------|--------------------------------------------------------------------------------------------------------------|
| Participation | 116 homeowners entered the program in 7 months |
| Impact | The program benefits 20% of all homeowners facing foreclosure |
| Outcomes | 30% of homeowners kept their homes 16% of participants were not viable for a loan modification |
| Agreement Rate | Mediation resulted in agreement in 76% of cases, all of which were for the homeowners to keep their homes |
| Participant Experience | Homeowners felt respected and treated fairly; most were satisfied with both their experience and the outcome |
| Time in Program | Cases averaged 80 days to complete mediation |

PROGRAM ACTIVITY

Case Status

The program served 116 homeowners in its first seven months, with 73 cases closed.

June 1 – December 31, 2014

| | |
|--------------------------|-----|
| Foreclosures Filed | 641 |
| Started Application | 145 |
| Entered Program | 116 |
| Closed | 73 |
| Home Retention | 22 |
| Voluntary Relinquishment | 0 |
| No Agreement | 7 |
| Program Not Completed | 44 |
| Pending | 43 |

Sessions Held**Pre-mediation**

Pre-mediation services are provided by a housing counselor, who meets once with the homeowners to determine their viability for a loan modification, advise them of their options and discuss the foreclosure mediation process. The result of the session is either to refer them on to mediation or to refer them to another housing counselor or other service for further help outside of the program. If they are referred to mediation, the housing counselor continues to help them to submit their packet and facilitates the document exchange.

Housing Counseling Activity

| | |
|----------------------------------|------|
| Housing Counseling Sessions Held | 91 |
| Average Hours in Session | 1.23 |

Mediation

Mediation services are provided by foreclosure-trained mediators. Mediation may start with document exchange and then move into negotiation once the lender completes the review of the homeowners' packet. Mediations generally take between one and three sessions to complete, though some cases have needed more sessions to arrive at an agreement.

Mediation Activity

| | |
|-------------------------------------|------|
| Mediation Sessions Held | 67 |
| Average Hours in Session | 0.83 |
| Average Hours Preparing for Session | 0.43 |

PROGRAM IMPACT

Program impact is defined, for this evaluation, as the percentage of eligible homeowners who have been assisted in some way by the program. This includes providing information to the homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packets, and facilitating negotiations with their lender.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowner may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and, therefore, do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

One in five homeowners facing foreclosure receive help from the program

The 17th Circuit program has benefitted 20% of homeowners facing foreclosure. A projected 6% [avoid foreclosure](#), all of them keeping their homes. These numbers put the program solidly in the middle of all the Attorney General-funded programs.

| Impact – All Eligible Foreclosures | | |
|------------------------------------|--------------------------|---------------|
| | 17 th Circuit | Comparison |
| Homeowners Helped | 20.4% | 10.2% - 67.6% |
| Foreclosure Avoidance* | 6.2% | 2.5% - 26.5% |
| Retention* | 6.2% | 2.1% - 14.2% |
| Voluntary Relinquishment* | 0% | 0% - 12.3% |

*These are projected percentages based on the outcomes of cases already closed.

The full 20% of homeowners the program helps receive assistance when they attend a housing counseling session. At this session, the housing counselor goes over their financial information with them, talks to them about their options for their home and explains the foreclosure process. Thus, 20% of homeowners get information that helps them navigate the foreclosure process regardless of whether or not they move forward in the program. The program then assists homeowners who continue in the process to try to avoid foreclosure by helping them submit their loan modification packet to their lenders, and then by helping them to negotiate with their lenders.

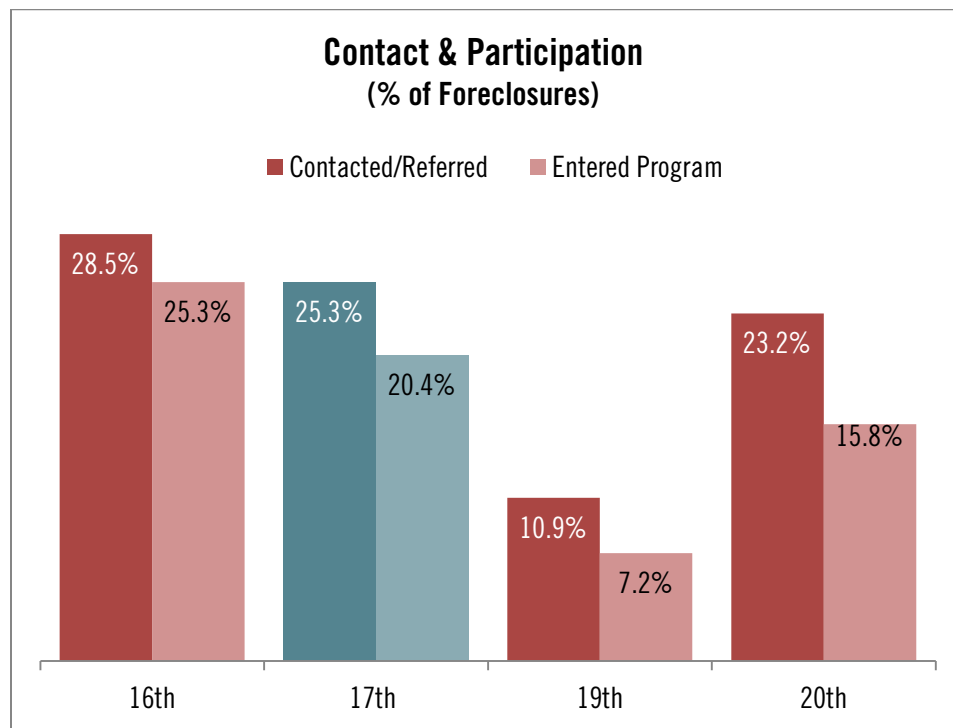
PARTICIPATION

Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

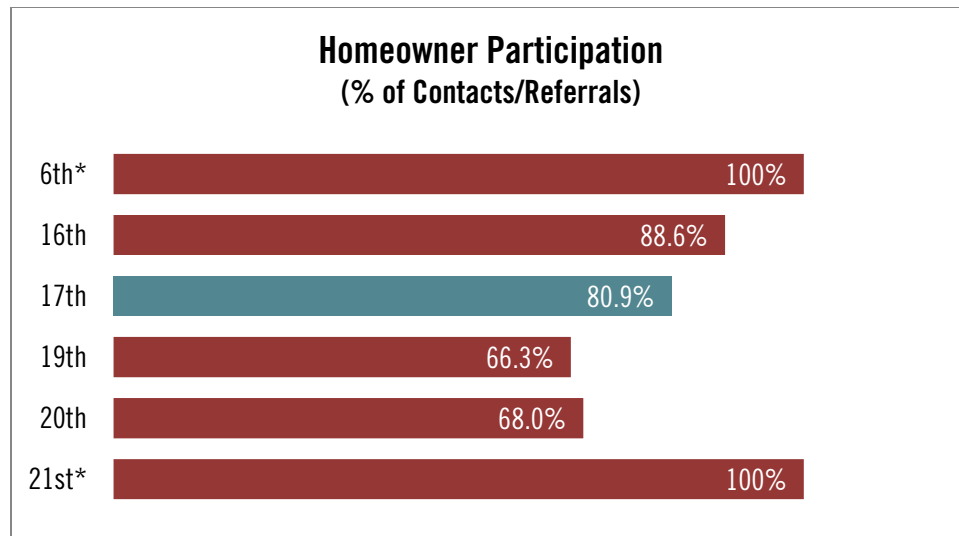
In the 17th Circuit program, homeowners who start to complete their online applications are considered to have started the entry process. Those who complete their application and call the housing counselor for an appointment are considered to have entered the program. This means that homeowners can start the process to enter the program and not complete it. Thus, this program has two tasks in bringing homeowners into the program. The first is encouraging the homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

The program has the highest rate of homeowner contact of the multi-step programs

In all, 25% of eligible homeowners start the online application. The housing counselor works with all those homeowners to be sure they complete the application and enter the program.



Of those who start the application, 81% enter the program. This means that 20% of homeowners participate.



*One-step entry program

WHAT DOES THIS MEAN?

Program participation is linked to difficulty of entry. The 17th Circuit program in general has low barriers to beginning the process of entry. Completing the process requires completing a detailed application, which could be a hurdle for some homeowners. In the end, 20% who started the application did not complete the entry process. However, some of those are people who could not be served by the program because they did not want to keep their home. Further, a higher percentage of homeowners complete the application in the 17th Circuit program than in the 20th Circuit program, which similarly requires the homeowners to complete a financial questionnaire in order to participate in the foreclosure mediation program. One reason may be that in the 17th, the homeowners complete the application online. This gives the housing counselor access to the homeowners' contact information, which allows her to help them get through the application process.

⇒ **Recommendation:** Continue to use the online application system and to assist homeowners to complete the application.

OUTCOMES

What happens when homeowners enter the program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot and should not expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

Most homeowners who entered the 17th Circuit program exited early, with half of them being removed from the program because they either were not viable for a loan modification or were not eligible because they did not want to keep their home. More than 30% reached an agreement with their lenders to keep their homes.

Closed Cases

1 in 3 participating homeowners kept their home

Overall, 30% of homeowners who enter the program reach an agreement to keep their homes, which is the second highest rate of retention for participating homeowners. On the other hand, the program has the highest non-completion rate.

| Outcomes of Closed Cases (n=73) | | |
|---------------------------------|----|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention /TPP | 22 | 30.1% |
| Agreement: Relinquishment | 0 | 0% |
| No Agreement | 7 | 9.6% |
| Closed: Program Not Completed | 44 | 60.3% |

WHAT DOES THIS MEAN?

Although the non-completion rate is the highest of all the programs, it is the only program that removes homeowners who are not viable for a loan modification or do not want to keep their homes. If those cases are removed, the number of non-completions drops to 22, which would give it the second highest completion rate. The relatively high percentage of retentions is also partially attributable to the removal of homeowners who would not be offered a loan modification.

Completed Cases

More than $\frac{3}{4}$ of homeowners who completed the program retained their homes

The 75.9% retention rate is the highest of all the programs. Seven of the 29 homeowners the housing counselor referred to mediation did not reach agreement to retain their home.

| Outcomes of Completed Cases (n=29) | | |
|-------------------------------------------|----------|-------------------------|
| | # | % of Completions |
| Agreement: Retention /TPP | 22 | 75.9% |
| Agreement: Relinquishment | 0 | 0% |
| No Agreement | 7 | 24.1% |

WHAT DOES THIS MEAN?

The retention rate is not only higher than the other Attorney General-funded programs, but is higher than most other programs in the country.³⁷ This high agreement rate is directly related to the removal of homeowners who are not viable for a loan modification. The court designed the program so that these homeowners would be removed to minimize the costs to the court of cases in which home retention was not likely. The housing counselor appears to be doing a good job of determining which homeowners are viable for a loan modification and therefore will be able to keep their homes. This is particularly true when taking into account the reason no agreement was reached. In at least three of those cases, the homeowners rejected the loan modification offered by their lender.

Types of Retentions

Most homeowners receive a temporary loan modification, which may later turn into a permanent modification.

| Retention Outcomes (n=22) | | |
|----------------------------------|----------|------------------------|
| | # | % of Retentions |
| Temporary Loan Modification* | 19 | 86.4% |
| Permanent Loan Modification | 2 | 9.1% |
| Short Payoff | 1 | 4.5% |

*These are modifications that have not completed their trial period or for which the program does not have information on whether they converted to permanent modifications.

Conversion of temporary loan modifications to permanent ones

There is no data on loan modification conversions.

Types of Voluntary Relinquishments

The program only works with homeowners who have a viable possibility for obtaining a loan modification. Therefore, although parties can discuss and agree to relinquishment options, no mediation that took place during the evaluation period ended in agreement to relinquish the home.

³⁷ For national statistics, see: Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE MEDIATION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

Outcomes of Cases Based on Referral Source

The judges are selecting appropriate cases to refer to mediation

Cases that were referred by judges and those that entered after the homeowners received their summons both most often ended in the homeowner exiting early. However, a significant number of cases had not yet closed.

| Outcomes Based on Referral Source | | | | |
|-----------------------------------|---------------|--------------|-----------------------|---------|
| | Retention/TPP | No Agreement | Program Not Completed | Pending |
| Judge Referred | 2 | 1 | 10 | 13 |
| Notice with Summons | 20 | 6 | 34 | 30 |

WHAT DOES THIS MEAN?

Although only two cases referred into the program by the judges ended with an agreement for the homeowners to keep the home, only half of the referred cases had been closed. Thirteen were still working their way through the program. All judge-referred cases were filed before the program was launched. Conventional wisdom says that the longer homeowners are in [default](#), the more in debt they are, and greater arrearages can make qualifying for a loan modification more difficult. This may be true. However, the judges appear to be selecting appropriate cases for the program, as only six of the 26 homeowners whose foreclosures were filed pre-launch were not found to be viable for a loan modification.

⇒ **Recommendation:** Continue to refer appropriate cases that were filed before the program launch date.

Outcomes by Stage

In the pre-mediation phase, the housing counselor meets with the homeowners for one session, determines whether they are viable for a loan modification and refers them to mediation, if they are. During mediation, a mediator works with the homeowners and lender to complete the exchange of documents and facilitate communication and negotiation between the parties.

Pre-Mediation

Homeowners are most likely to move on to mediation at the end of pre-mediation, though many exit the program before referral.

| Pre-Mediation Outcomes | |
|-------------------------------|----|
| Referred to Mediation | 54 |
| Closed: Program Not Completed | 44 |
| Pending | 14 |

Mediation

76% of cases reach agreement in mediation

Most homeowners who reach mediation end with an agreement to keep their home. Most often, the agreement is for a temporary loan modification.

| Mediation Outcomes | |
|-------------------------------|----|
| In Trial Period Plan | 19 |
| Agreement: Retention | 3 |
| Agreement: Relinquishment | 0 |
| No Agreement | 7 |
| Closed: Program Not Completed | 2 |
| Pending | 23 |

WHAT DOES THIS MEAN?

One role of the housing counselor is to determine if the homeowners are viable for a loan modification. Ideally, then, all homeowners who proceed to mediation would obtain agreements to keep their homes. Of the 29 homeowners who showed up for their mediation session, 22 reached agreement. This is the highest rate of agreement for all the programs, demonstrating that the housing counselor is doing a good job of removing unqualified homeowners and mediators are doing a good job of facilitating negotiations.

PROGRAM COMPLETION

The homeowners complete the program if they have worked with the housing counselor to submit a loan modification packet, the lender has reviewed the packet and the homeowners have an opportunity to weigh the options based on the lender's decision about what to offer the homeowners. If these steps are not completed, the case is marked as "program not completed – return to court."

½ of all non-completions were removed by the housing counselor

More than 40% of homeowners who left the program early did so because they did not qualify for a loan modification and, therefore, could not move on through the program. Another 9% were not eligible because they did not want to keep their homes.

| Reasons Homeowners Left Program (n=44)* | | |
|-----------------------------------------|----|--------------------|
| | # | % of Non-completes |
| Did not qualify for available options | 18 | 40.9% |
| Did not complete documentation | 19 | 43.2% |
| Homeowner withdrew | 7 | 15.9% |
| Not eligible – didn't want to keep home | 4 | 9.1% |
| Homeowner did not appear for session | 3 | 6.8% |

*There can be more than one reason that a homeowner leaves the program. Therefore, the number of reasons is greater than the number of homeowners.

WHAT DOES THIS MEAN?

The program's high rate of non-completions is caused in large part by its limiting participation in mediation to those homeowners who can qualify for a loan modification and want to keep their homes. If only those homeowners who withdrew or did not complete a required step to stay in the program are counted, 25% of homeowners did not complete the program. This would be the second highest completion rate of all the Attorney General-funded programs.

TIME IN PROGRAM**There are no delays in the mediation process**

The 17th Circuit program has the second shortest timeframe of any of the programs. It takes less than three months to complete the program. Cases that do not complete the program take less than a month to exit.

| Average days... | | How calculated... |
|----------------------------------------------------|----|---------------------------------------------------------------------------------------------------------------------------------------------------|
| From filing to program exit | 72 | From the date case filed to the date the homeowners exit the program |
| From program entry to program exit | 48 | From date homeowners complete application to program exit |
| From program entry to program exit – completed | 80 | From date homeowners complete application to program exit – cases that ended with an agreement or no agreement |
| From program entry to program exit – not completed | 24 | From date homeowners complete application to program exit – cases in which homeowners withdrew or did not comply with program requirements |
| In pre-mediation phase | 26 | From date homeowners contact HomeStart to schedule pre-mediation session to date scheduled for mediation or program exit |
| In mediation phase | 53 | From date referred to mediation to program exit |

WHAT DOES THIS MEAN?

The short timeframe for cases that do not complete the program is due to the housing counselor removing from the program homeowners who are not viable for the program or who do not wish to keep their homes. Because this sorting happens early on, at the first housing counseling session, average timeframes are shortened. This also may explain the relatively short timeframe for cases that complete the program, as well. The shorter time in program is due to the 26 days the cases average in pre-mediation for cases referred on to mediation, which is shorter than the other programs.

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires³⁸

Homeowners had a good experience in housing counseling

Homeowners who met with the housing counselor during the pre-mediation phase left with a greater understanding of their options and how to work with their lenders. They all felt they were treated very fairly and with very much respect, and they were almost all very satisfied with their experience.

Procedural Justice

The court wanted homeowners, in particular, to have an experience of procedural justice. That is, it wanted a process that treated the homeowners with dignity and respect and in which homeowners were active in the process, not “spectators,” as one judge described homeowners going through foreclosure.

For the evaluation, this was measured by whether the homeowners experienced procedural justice. Procedural justice is considered to be one of the most important aspects of a party’s experience with the justice system.³⁹ Its presence or lack thereof has a significant impact on parties’ satisfaction with the justice system and their perception of its fairness. Research has found that the most important characteristics of procedural justice are voice (the sense that one’s voice has been heard in the process) and the sense that one’s feelings, ideas, and positions have been treated with respect.⁴⁰

On the pre-mediation session questionnaire, the homeowners were asked if the housing counselor treated them with respect and fairness. All homeowners who responded felt they were treated very fairly and with very much respect.

| Pre-Mediation: Respect and Fairness | | | |
|----------------------------------------------------|-----------|----------|------------|
| | Very much | Somewhat | Not at all |
| Did the counselor treat you with respect? (n = 63) | 100% | 0% | 0% |
| Did the counselor treat you fairly? (n = 54) | 100% | 0% | 0% |

The importance to homeowners of how they were treated was clear in their comments about what they liked about housing counseling:

- “[The housing counselor] was very kind and understanding. The respect she showed me made me feel like I was not alone or a bad person.”

³⁸ The housing counselor hands the homeowners the questionnaire to complete at the end of the pre-mediation session and leaves while the complete it. In all, 63 homeowners in 55 cases completed questionnaires. This means that at least one homeowner responded in 85% of the 65 cases that went through the pre-mediation phase.

³⁹ Alan E. Lind, “In the Eye of the Beholder: Tort Litigants’ Evaluations of their Experiences in the Civil Justice System,” *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

⁴⁰ *Id.*

- “She made me feel very relaxed and explained everything to me so great that I feel like I have something to feel positive about now.”
- “I liked that I was treated with respect.”
- “The respect and courtesy with which we were treated.”
- “Everything was fairly done and our counselor was very nice and polite. Thank you!”
- “[The housing counselor] was very friendly and understanding.”

WHAT DOES THIS MEAN?

Housing counseling is providing the homeowners with an experience of procedural justice, thus fulfilling the court’s goal of providing homeowners with a process in which the homeowners were treated with dignity.

Pre-Mediation: Understanding

Most homeowners felt they learned a lot during their housing counseling session. All of them left feeling they learned something that could help them as they completed either the foreclosure mediation program or the foreclosure process.

Pre-Mediation: Increase in Understanding (n=63)

| | Very much | Somewhat | No, still don’t understand |
|-------------------------------------------------------|------------------|-----------------|-----------------------------------|
| Understand options better than before | 71.4% | 28.6% | 0% |
| Understand how to work with lender better than before | 77.8% | 22.2% | 0% |

The homeowners’ comments further demonstrate that they felt they were gaining important information. Of the 63 who responded to the questionnaire, 33 mentioned this. Among their comments about what they liked about the session were:

- “Our options – everything was explained thoroughly. Very thoroughly.”
- “The information on how the housing system works.”
- “Let me know options and possibilities reality of what to expect.”
- “The information provided was broken down so that anyone could understand the pros and cons.”
- “I liked the way everything was explained in a way where it was very understandable for me.”
- “It was very informative, I am confident in the processes that I will be facing.”
- “Explained process better, made me feel less anxious about process.”

What does this mean?

One of the more important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situation and how to move forward. With all of the

homeowners saying their understanding increased, and the great majority saying it increased “very much,” the program is doing well in this respect.

Pre-Mediation: Satisfaction

Almost all homeowners were satisfied with their experience in pre-mediation.

| Pre-Mediation Satisfaction (n=63) | | | | |
|-----------------------------------------------------|----------------|-----------|-------------|------------------|
| | Very satisfied | Satisfied | Unsatisfied | Very unsatisfied |
| How satisfied are you with your overall experience? | 82.5% | 12.7% | 0% | 4.8%* |

*Those homeowners who checked “very unsatisfied” most likely meant to check “very satisfied.” Their responses to the other questions were all positive.

In addition to talking about the information they received and the way they were treated, homeowners were appreciative of the help they received. For example:

- “[The housing counselor] was very helpful.”
- “I believe she can help me.”
- “Very good people help you out.”

Only two homeowners mentioned things they did not like: one wanted to be able to come after 4pm and the other thought the repayment amount on the loan was too high.

WHAT DOES THIS MEAN?

Homeowners greatly appreciate meeting one-on-one with a housing counselor. The 17th Circuit program shares high ratings for its pre-mediation phase with the 19th Circuit program, the other program in which all homeowners meet with a housing counselor. The program also shares with the 19th numerous heartfelt comments about what the homeowners like about the process.

Mediation Session Questionnaires⁴¹

Participants were largely positive about their experience in mediation. They continued to have an experience of procedural justice, with almost all feeling they had voice, were respected and treated

⁴¹ Survey method and response rate:

The mediators hand the questionnaire to the participants at the end of the mediation session and then leave the room while they complete the form. Since lender representatives participate by phone, lender attorneys read them the questions and fills out the survey for them.

In all, 43 homeowners in 37 cases responded to the survey. This means that at least one homeowner responded in this 86% of the 43 mediated cases. 17 Lender reps in 16 cases responded to the survey. This is a response rate of 37%. Lender attorneys responded in 36 cases. This is a response rate of 84%. Only 3 homeowner attorneys responded to the survey. It is unclear what the response rate is; however, very few homeowners are represented. Because only 3 homeowner attorneys responded, their responses aren’t included in the charts.

fairly. Most homeowners were satisfied with the mediation and the outcome. Almost all thought the mediators were helpful without being coercive.

Procedural Justice

As with housing counseling, the homeowners who participated in mediation were asked about their experience of procedural justice. In this context, they were asked questions that explored whether they felt respected and whether they felt they had voice. The latter was measured by whether they felt they were able to talk about their most important issues and concerns and whether they felt the mediator understood what was important to them.

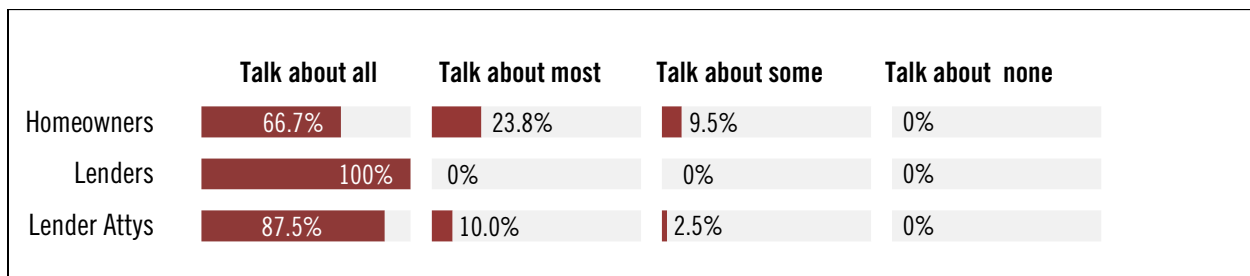
Homeowners felt they had an experience of procedural justice

Most homeowners felt they had voice, in that they were able to talk about all or most of their issues and concerns and that they felt the mediators understood what was important to them. Most felt they were treated with very much respect and very fairly. Two homeowners from the same case accounted for all the “not at all” responses for the procedural justice questions.

However, the lenders and lender attorneys were slightly more likely to feel they were able to talk about all or most of their issues. They were also slightly more likely to feel the mediation process was fair.

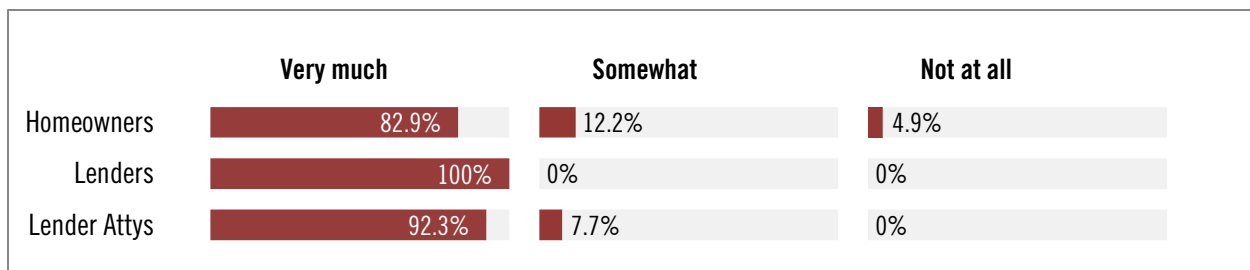
Were you able to talk about the issues and concerns that were most important to you?

All but four homeowners felt they were able to talk about all or most of their issues and concerns. Lender representatives and lender attorneys were slightly more likely to believe they could do so.



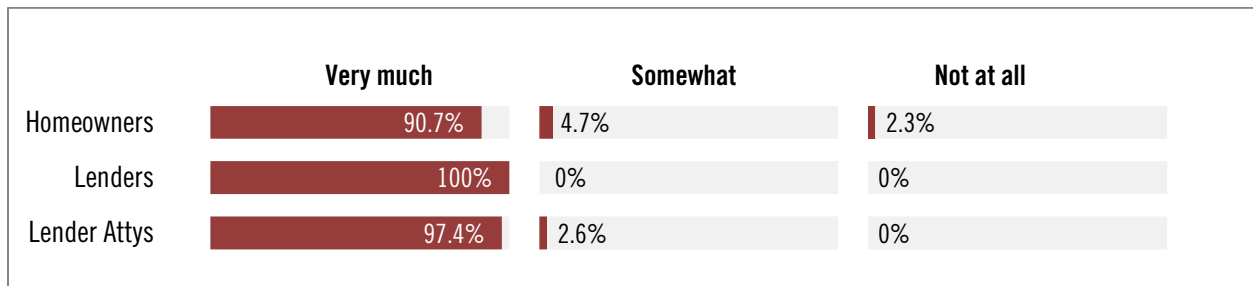
How much did the mediator understand what was important to you/your side?

All but two homeowners felt the mediators understood what was important to them. All lender representatives and lender attorneys believed the mediators understood their sides.



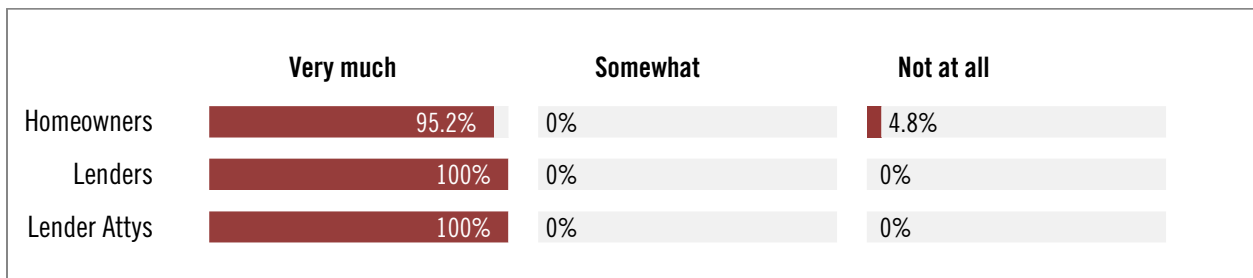
Did the mediator treat you with respect?

All but one homeowner felt they were treated with respect, and all but three felt they were treated with very much respect. All lender representatives and lender attorneys felt the mediators treated them with respect.



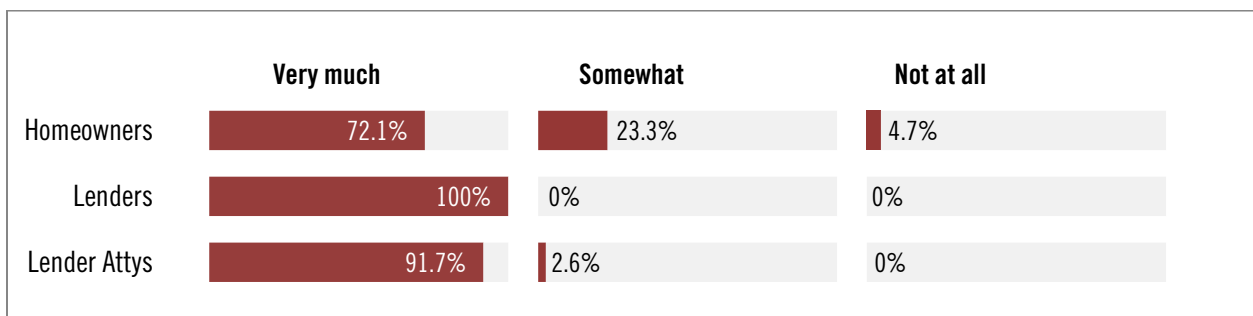
Did the mediator treat you fairly?

All but two homeowners felt the mediators treated them very fairly. All lender representatives and lender attorneys felt the same.



Was the mediation process fair?

Homeowners were less likely to believe the process was very fair than to believe they were treated very fairly.



Almost half of homeowners who commented on what they liked about the mediation mentioned procedural justice issues. Their comments included:

- “Mediator was fair and helpful. Didn't push me to do anything I didn't want to do.”
- “It was very fair.”
- “The respect and courtesy with which we were treated.”
- “[The mediator] was very pleasant to work with.”

Lenders and lender attorneys were more likely to feel they were able to talk about their issues and concerns and to feel the process was fair. The former is likely due to homeowners having a broader range of issues and concerns to discuss that were deeply personal to their lives. Unfortunately, those homeowners who did not believe the process was fair did not explain why. Their responses could be due to not receiving their desired outcome, but the connection is not instantly clear. Of those who said the process was “somewhat” or “not at all” fair, some had not yet concluded mediation and others had received a loan modification. Further, more than half of the homeowners who thought the process was “somewhat” fair were satisfied with the outcome of mediation.

WHAT DOES THIS MEAN?

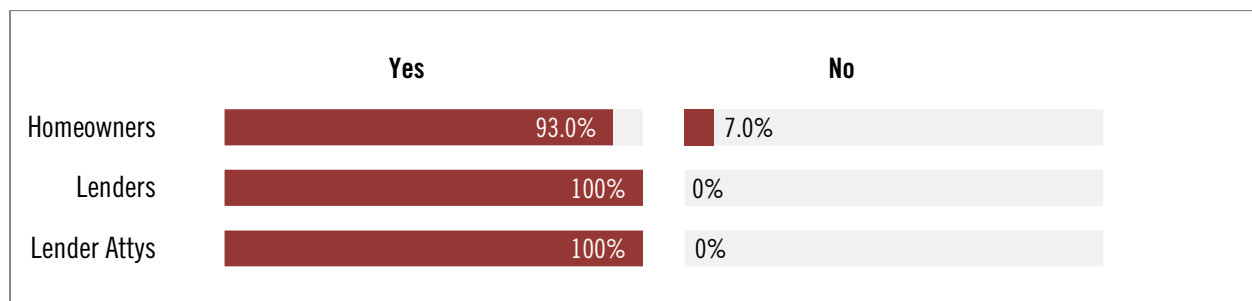
The mediators are providing a procedurally just process to all parties. Importantly, they are providing voice to homeowners and treating them with respect, which anecdotally was missing with homeowners’ interactions with their lenders. Mediators are also seen as impartial and unbiased, as all but two participants felt mediators treated them fairly.

Mediator Skills

Effective mediation requires a mediator who walks a fine line between being actively involved in assisting the parties without pushing them into a result they do not want. The results show that the parties felt these mediators walked that line. In addition, almost all lender attorneys said they would use the mediator again.

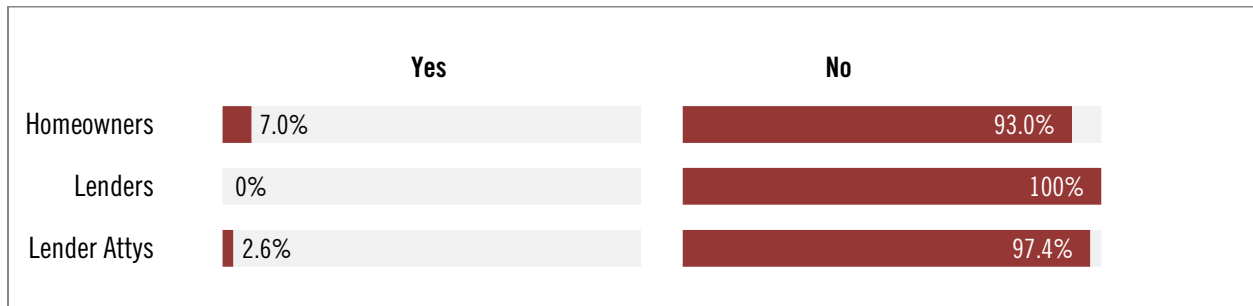
Was the mediator active enough in helping you to work out the issues in the dispute?

Of all the participants, only three homeowners felt the mediator were not helpful in working out the issues in the dispute.



Did the mediator push you too hard to get you to settle?

Only four participants felt the mediator pushed them too hard.



Would you use this mediator again?

This question is asked as another measure of the mediator’s ability. Since homeowners do not have the experience necessary to answer this question knowledgeably, only the attorneys were asked this question.

| | Use Mediator Again | | | | | |
|-----------------|--------------------|-------|----------|-------|----|----|
| | Yes | | Possibly | | No | |
| | # | % | # | % | # | % |
| Homeowner Attys | 2 | 66.7% | 1 | 33.3% | 0 | 0% |
| Lender Attys | 33 | 91.7% | 3 | 8.3% | 0 | 0% |

A number of participants mentioned their satisfaction with the mediators in the comments about what they liked and disliked. In addition to the homeowners who talked about the way in which they were treated and the demeanor of the mediators, others said:

- “Mediator did most of the talking and explained things pretty well.”
- “I liked it when some questions came up from the mediator that I was going to ask which let me know she was on top of things that I felt were important to know.”

No homeowner had anything negative to say about the mediators. Neither did the lender attorneys, whose positive comments were:

- “He was very familiar with the foreclosure process and documents.”
- “Great mediator.”
- “[The mediator was] Very knowledgeable and friendly. Very fair.”

WHAT DOES THIS MEAN?

The participants felt, in most cases, that the mediator was actively helpful in resolving the dispute while not pushing too hard to get them to settle (a sign that mediators are violating self-determination, one of the main principles of mediation). Almost all of the attorneys said they would definitely use the mediator again and none said they would not. The attorneys, and in particular the lender attorneys,

have significant experience with mediators, which makes them reliable judges of the mediators' skill.⁴² That few lender attorneys had any reservations about their mediator further demonstrates the quality of the mediators.

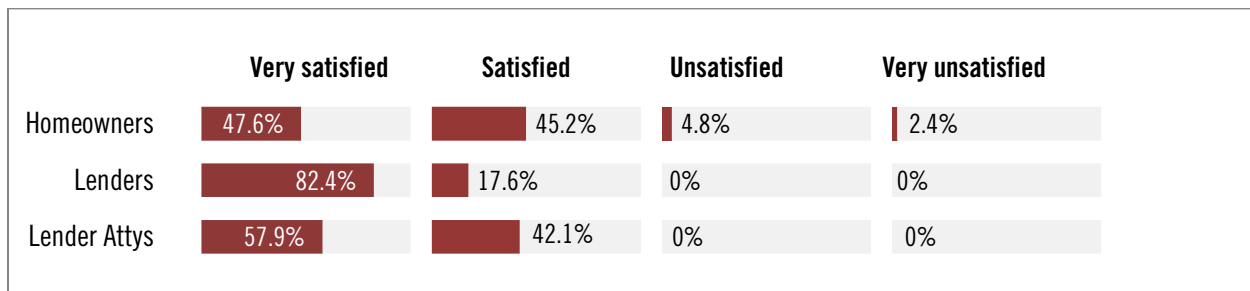
Satisfaction

Almost all participants were satisfied with their experience in mediation

Of all the participants, only three homeowners were not satisfied with their experience in mediation. As expected, homeowners were less satisfied with the outcome than with their overall experience. Lenders and lender attorneys were about equal in their satisfaction with their experience and the outcome.

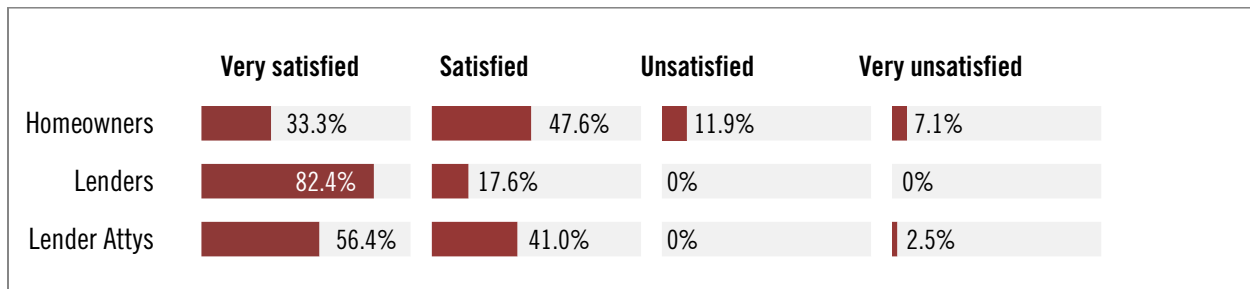
How satisfied are you with your overall experience in the mediation session?

Almost all homeowners were satisfied with their experience in the mediation.



How satisfied are you with the outcome of the mediation?

Nineteen percent of homeowners were dissatisfied with the outcome of their mediation.



In addition to the praise of the mediators' skills and the appreciation for the way in which they were treated, homeowners noted they were glad to have a forum for communication and one that could quickly get everyone on board with what documents were needed:

- "It was over quickly as we agreed to further paperwork to be discussed at a later date."

⁴² Research has demonstrated this is the case. See Roselle Wissler and Robert W. Rack, "[Assessing Mediator Performance: The Usefulness of Participant Questionnaires](#)" in JOURNAL OF DISPUTE RESOLUTION, p. 229 (2004).

- “It brought all parties together and opened up a clear point of communication. Face to face is always more productive than email.”

Perhaps most importantly for them, as two mentioned, “I get to keep my home.”

WHAT DOES THIS MEAN?

Homeowners were overall satisfied with their experiences. As expected, they were less satisfied with the outcomes. Satisfaction with the outcome in mediation has been tied in other research to whether the parties come to agreement. This is evident here. With only one exception, all homeowners who were unsatisfied with the outcomes either did not reach agreement or rejected the lender’s loan modification offer.

Lender attorneys also view the program positively. Their satisfaction with the program, outcomes and mediators are all higher than those for the 16th and 19th Circuit programs, the only other two that collected questionnaires about participant perceptions of mediation. This may be due to the program’s requirement that only homeowners with a viable possibility of obtaining a loan modification be referred to mediation.

It is apparent that the program is providing a positive experience to all participants in mediation, most importantly to the homeowners.

Participant Characteristics

Given that the foreclosure crisis has hit Black/African-Americans and Latinos particularly hard,⁴³ it is a concern that the racial and ethnic makeup of those who participate in and complete the programs be similar to the racial and ethnic makeup of the county they serve. Further, the program staff is concerned that the use of an online application system and the program’s viability requirement would deprive the most vulnerable homeowners of the program’s services.

RACIAL/ETHNIC MAKEUP OF PARTICIPANTS⁴⁴

Unfortunately, there is no accurate data about the race and ethnicity of all homeowners with foreclosures filed against them in Winnebago County, so no comparison can be made between those

⁴³ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#), Center for Responsible Lending (June 18, 2010).

Hall, Matthew, Kyle Crowder, Amy Springer. “Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions,” *AMERICAN SOCIOLOGICAL REVIEW* (April 2015).

⁴⁴ The race and ethnic makeup are presented for the primary homeowner only. There were only four cases in which homeowners were of different races or ethnicities.

who contact the program and all eligible homeowners.⁴⁵ However, the ethnic makeup of the participants roughly tracks the ethnic makeup of Winnebago County, but with Black/African-Americans and Latinos contacting the program at a slightly higher percentage than they represent in the county as a whole. This difference probably reflects the larger percentages of those groups that are affected by foreclosure. Additionally, Black/African-Americans and Latinos are more likely to enter and complete the program than non-Hispanic Whites. However, the difference is not significant.

| Homeowner Race/Ethnicity | | | | |
|--------------------------|-----------|---------|-----------|--------|
| | Contacted | Entered | Completed | County |
| White, Not Hispanic | 71.8% | 64.4% | 53.6% | 71.30% |
| Black/African American | 16.1% | 19.8% | 25.0% | 12.70% |
| Latino/Hispanic | 12.9% | 13.9% | 17.9% | 11.70% |
| Other | 0% | 0% | 0% | 5.50% |

WHAT DOES THIS MEAN?

The program is doing a good job of bringing homeowners of all races/ethnicities into the program and serving them equally once they enter.

INCOME LEVEL

Most participating homeowners have an income of less than the median for the county, which is just over \$47,000. There is no data about the relative percentages of income levels for all eligible homeowners, so it is not possible to compare those who contacted the program with all foreclosure filings.

As is expected, those earning less than \$20,000 were less likely to complete the program, with only three of the 20 who contacted the program doing so. However, those making less than the median income for the county were not statistically less likely to complete the program than those with a household income above the median.

⁴⁵ Boone County is not included because only three cases from the county entered the program during the evaluation period.

| Household Income | | | |
|---------------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <\$20,000 | 16.5% | 18.8% | 10.3% |
| \$20,000 - \$34,999 | 31.4% | 29.5% | 34.5% |
| \$35,000 - \$49,999 | 25.6% | 23.2% | 20.7% |
| \$50,000 - \$74,999 | 15.7% | 17.9% | 24.1% |
| \$75,000 - \$99,999 | 8.3% | 8.9% | 10.3% |
| \$100,000-\$149,999 | 1.7% | 1.8% | 0% |
| \$150,000+ | 0.8% | 0% | 0% |

WHAT DOES THIS MEAN?

It is not known whether the proportions of income ranges of those homeowners contacting the program match those of all eligible homeowners. However, the fact that most homeowners have a household income below the county median, as well as the relatively high percentage of homeowners contacting and entering the program, indicates that the online application is not an obstacle to participation for those with limited means.

Almost all homeowners making less than \$20,000 were found by the housing counselor not to have a viable possibility to obtain a loan modification and, therefore, were removed from the program. This seems to support the program staff's concern that the most vulnerable would not receive some of the program's services under this model. Nonetheless, they did receive information on their options and the foreclosure process.

AGE OF PARTICIPATING HOMEOWNERS

Most homeowners who participated in the program were in their 40s and 50s.

| Homeowner Age | | | |
|---------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <30 years | N/A | 2.8% | 0% |
| 30-39 | N/A | 16.0% | 11.1% |
| 40-49 | N/A | 34.0% | 44.4% |
| 50-59 | N/A | 34.9% | 40.7% |
| 60-69 | N/A | 8.5% | 3.7% |
| 70-79 | N/A | 3.8% | 0% |
| 80+ | N/A | 0% | 0% |

Discussion and Recommendations

The 17th Circuit program has established an entry process that is relatively simple for homeowners to get through. Further, the online application allows the housing counselor help the homeowners to complete the steps to enter. This has led to a high rate of homeowners entering the program once they start the application. Those homeowners who do participate are also likely to complete the program, with only 25% exiting early for reasons of their own. While mediation is restricted to homeowners with a viable possibility of obtaining a loan modification, the housing counselor has done a good job of determining which homeowners should continue on to mediation. Due in part to the weeding out of non-viable homeowners, 76% of homeowners completing the program were able to keep their homes.

The participants have a high level of satisfaction with each phase of the process. Homeowners indicated in their questionnaire responses and comments that they appreciate the way they were treated and the opportunity to get information and communicate with their lenders. The lender representatives and attorneys were also highly satisfied.

APPLICATION AND INTAKE IS ENHANCING PARTICIPATION

The program has the second highest contact and participation rate among the non-mandatory programs, indicating that its entry process is easier for homeowners than in the other programs. The online application system seems to be one reason for this. The 20th Circuit program has a similar entry requirement – to complete an extensive financial questionnaire. However, homeowners in that program complete a paper version and then mail it to the Circuit Clerk or go to the courthouse to file it along with the request for mediation. In the 17th Circuit program, the online application allows the housing counselor to contact the homeowner to see if they need help completing it, and to remind them of the deadline. In the 20th, those who receive the questionnaire with their summons do not receive any assistance and are not contacted by the program until after they file their questionnaires with the Circuit Clerk. The difference in completion rate is striking. In the 17th, 80% of homeowners completed their applications on time. In the 20th, only 59% of those who respond to the notice with their summons completed their questionnaires on time and file it with the Clerk.

RECOMMENDATION: Continue to use the online application system and continue to help homeowners as they complete their applications.

HOUSING COUNSELOR IS CORRECTLY IDENTIFYING APPROPRIATE CASES FOR MEDIATION

The court designed a program that focuses its resources on helping homeowners who have a chance at keeping their homes. It is important to the court that the program not “waste” resources on mediations that cannot have a positive outcome. The program process therefore begins with the housing counselor determining the homeowner’s viability for a loan modification.

The program is achieving this goal. It has the highest agreement rate of all programs at 76%, demonstrating that the housing counselor is removing homeowners that likely would not obtain a

loan modification and minimizing the cost to the court of mediations that do not result in saved homes.

BENEFIT OF EXPANDING ELIGIBLE CASES

The court also wanted to provide a process that changed homeowners from spectators to a traumatic situation to actors who could understand what was happening and could communicate effectively with their lenders. This would arguably benefit all homeowners, not just those who are able to obtain a loan modification. Moreover, all homeowners who wish to participate are given the opportunity to talk with a housing counselor in order to better understand their situation and what is and is not possible for them to achieve.

There is a question, however, about what a positive outcome is. For some homeowners, [exiting their homes gracefully](#) is a positive outcome. These homeowners could benefit from the authority of the court rule, hand-holding through any document exchange that is needed, and the opportunity to communicate that the program offers. The success that mediation has in this regard can be seen in the 16th Circuit program's outcomes, where ten of 14 homeowners wanting to gracefully exit their home left mediation with an agreement to do so. Additionally, nine homeowners who did not want to keep their homes entered the program, indicating their desire to be helped.

RECOMMENDATION: The court should explore whether to expand the program to homeowners who want to voluntarily relinquish their homes. This would allow more homeowners to benefit from the humanizing experience offered by the program. In making this decision, the court should take into consideration program resources, which may be stretched too thin if these cases are made eligible, causing delays in processing cases during both the housing counseling and mediation phases. If the court does find that the program's resources are not sufficient for adding these cases, it may want to consider adding them as the number of foreclosures declines.

NEED FOR SECOND OPPORTUNITY TO PARTICIPATE

There is also evidence that many homeowners who could be helped are not electing to enter [multi-step entry](#) programs. In the 21st Circuit program, where 68% of homeowners respond to a mandatory summons, a projected 14% of all eligible homeowners keep their homes through the mediation program. This contrasts with 6% or less in the other programs, including the 17th Circuit's, and indicates that too many homeowners are self-selecting out of the program. The 20th Circuit program addresses this issue by actively recruiting homeowners during default judgment hearings. The judge then approves the homeowners' motion to be referred to mediation. This recruitment model has increased participation the program by more than 100%. Additionally, the practice of ordering in cases at a later point in the case has proven to be very successful, with more homeowners retaining their homes when ordered in than when they entered in response to the program notice with their summons.

The judges in the 17th Circuit program have been active in ordering into the program cases in which homeowners have demonstrated an interest in working with their lender. However, during the evaluation period, homeowners who did not respond to the notice of mediation that accompanied their summons did not avail themselves of this second opportunity to participate in the program. There may be a way to reach more homeowners who attend their hearings through a recruitment model similar to that of the 20th Circuit program. The program coordinator has begun to use this model and now is available during court hearings to recruit and assist homeowners in this process. The program coordinator also notifies the judges when a homeowner started their application for the program but did not complete it so that they are aware of the homeowners' interest. Those homeowners also receive a letter from the program coordinator letting them know that they can request to enter the program when they attend the default judgment hearing.

RECOMMENDATION: The judges should continue to refer appropriate cases to mediation at the default judgment hearing. The program should increase the likelihood of homeowners deciding to participate by continuing to recruit and assist homeowners who attend the hearings. The program should also continue to send letters to homeowners who start their application but do not complete it. These program efforts should be monitored to determine their effectiveness.

TWO-PART PROCESS IS APPRECIATED BY HOMEOWNERS

The court wanted to help homeowners first by helping them understand their situation and how to proceed. Housing counseling was intended to provide this. All homeowners who complete an application and arrive at their pre-mediation session receive guidance from a housing counselor. The housing counselor talks with them about their options, explains the foreclosure process and explains mediation. If the housing counselor determines that they will not qualify for a loan modification or other home retention option, the homeowners are offered the option of continuing housing counseling. These factors all point to even non-viable homeowners getting to understand their situation better, and their questionnaire responses back this up. Almost all homeowners indicated they were very satisfied with this process and that they learned a lot about their options and how to work with their lenders. Their appreciation of their meeting with the housing counselor was very evident in the numerous glowing comments about the meetings and the counselors on the post-session questionnaires.

Once referred on to mediation, homeowners continue to have positive experiences and obtain good outcomes. Homeowners appreciated sitting down face-to-face with their lender. Anecdotally, the housing counselor said that homeowners who decided not to participate in the program were less likely to be able to communicate with their lenders and have their packets reviewed. Both the housing counselor and the program coordinator noted that having the two of them working together on cases made case management more efficient and document exchange more effective.

RECOMMENDATION: As the court considers how to help homeowners after the grant ends, it should try to maintain the two-part structure that is currently in place.

DOCUMENT EXCHANGE TAKING LONGER THAN EXPECTED

The court envisioned a process in which document exchange would be streamlined by having the housing counselor ensure the loan modification packet was complete and correct. The exchange process has proven to be more complicated. Lenders sometimes delay review or request different documents. This means that the first mediation session often becomes a document exchange facilitation, requiring all parties to arrive for a mediation that may take less than 15 minutes and ends with no resolution.

The program coordinator has addressed this issue in two ways. First, she checks on the status of the review prior to mediation and asks the mediator, and then the participants whether they would like to meet by phone if it is apparent that the mediation will be about document exchange. The second way she has addressed this is by beginning to facilitate these sessions herself, in the same way that the program coordinator does in the 20th Circuit program.

RECOMMENDATION: Continue to offer alternatives to in-person mediation sessions when the document exchange has not been completed. Monitor the effectiveness and efficiency of these alternatives to see if they are working or they need to be tweaked.

PARTICIPANTS HAD A POSITIVE EXPERIENCE

As important as how many homeowners avoid foreclosure, if not more so, is whether the homeowners have a positive experience in the program. The court wanted homeowners to have more control over their situation by learning about their options and how to work with their lender, and then being able to communicate face-to-face with their lender. The court also wanted homeowners to have a better experience than in the normal foreclosure process. The homeowners' responses show that these goals are being met. They leave housing counseling believing they understand things better and in both housing counseling and mediation, they feel they are being treated very fairly and with very much respect. Unlike the other two programs in which mediation surveys were collected, the homeowners did not complain about the behavior of the lender representatives or lender attorneys.

MEDIATOR SKILLS

The participants gave high marks to the mediators. Participants said that mediators were helpful, while not being coercive, and they treated the parties fairly and with respect. Lender attorneys also appeared to be satisfied with their mediator, as all but three said they would definitely use the mediator again. The others said they possibly would. Unlike other programs, the participants only had positive comments about the mediators.

ALL PARTICIPANTS ARE BEING SERVED EQUALLY

The racial and ethnic makeup of the homeowners who enter the program is similar to that of the entire county. This indicates that homeowners of all races and ethnicities are being equally recruited. When they enter, they have a statistically equal chance of completing the program, which demonstrates that they are being served equally once they enter the program.

Twenty homeowners who participated had household incomes of less than \$20,000, accounting for 18% of participants. Although almost half did not complete the program, their completion of the application process indicates that the online application process is not an insurmountable obstacle for those with few financial resources. However, the breakdown of income ranges for all homeowners facing foreclosure in the 17th Circuit is not known. Therefore, it cannot be determined whether the need to use a computer has a differential effect on low-income homeowners.

Conclusion

The 17th Circuit Residential Mortgage Foreclosure Program is successful at helping homeowners to enter the program once they have started the application process. It also is very successful at helping those who are able to obtain a loan modification to do so, with 76% of viable homeowners reaching agreement to keep their homes. The two-step process, in which a housing counselor meets with the homeowners and helps them complete their packets, then sends them to a mediator who facilitates negotiations, works very well for the homeowners. They gain a high level of understanding and feel they are treated very fairly and with very much respect at each phase of the program. The program's main focus moving forward should be offering more homeowners a second opportunity to participate.

19TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM Lake County

Overview

| | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Launch Date | December 2, 2013 |
| Program Size | 155 cases entered the program in the first year |
| Type | Multi-step entry |
| Entry Process | HO* attends informational session, schedules HC* session |
| Intake | By HC agency, after informational session |
| Pre-mediation | 1-2 HC sessions to complete packet |
| Mediation | Unlimited by court rule; usually 1-2 mediation sessions, must complete within 60 days of completion of pre-mediation. |
| Remain in Program During TPP?* | No |
| Timing of Foreclosure Stay | Date of service of process until case leaves program |
| Homeowner Cost | None |
| Lender Additional Filing Fee | \$125 |
| Mediator Payment | \$250/case |
| Program Staff | 1 full-time program coordinator |
| Program Rule | PART 19.00 - Lake County Residential Real Estate Mortgage Foreclosure Mediation Program |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- [Homeowners](#) must attend a group informational session on the [foreclosure](#) process and the foreclosure mediation program in order to participate
- The program has much shorter timeframes for completing the [document exchange](#) process than the other Attorney General-funded programs
- There is a deadline for completing the mediation sessions
- The stay on the foreclosure process does not continue through the [temporary loan modification](#) trial period

* HC = housing counseling HO = homeowner TPP = trial period plan

STATISTICS AT A GLANCE

In the program's first year, 155 homeowners participated.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-------|
| Foreclosures Filed | 2,339 |
| Attended Informational Session | 238 |
| Entered Program | 155 |
| Closed | 135 |
| Pending | 20 |

The program helps 11% of eligible homeowners.

| Program Impact | |
|-----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 10.9% |
| Foreclosures Avoided* | 2.5% |
| Homes Retained* | 2.1% |

*Projected based on closed cases.

More than 1/3 of homeowners who enter the program and more than 2/3 of those who complete the program avoid foreclosure.

| Outcomes of Closed and Completed Cases* | | | |
|-----------------------------------------|----|-------------------|------------------|
| | # | % of Closed Cases | % of Completions |
| Agreement: Retention/ TPP | 39 | 28.9% | 58.2% |
| Agreement: Relinquishment | 7 | 5.2% | 10.4% |
| No Agreement | 21 | 15.6% | 31.3% |
| Program Not Completed | 66 | 48.9% | N/A |

*Two cases had outcomes marked as "other."

On average, it takes 2 months to complete the program.

| Average Number of Days | |
|------------------------------------------|----|
| Filing to Close – All Cases | 77 |
| Program Entry to Close | 49 |
| Program Entry to Close – Completed Cases | 63 |
| Program Entry to Close – Not Completed | 36 |

Homeowners leave their housing counseling session with a better understanding of their situation.

| Pre-Mediation: Homeowner Experience (n = 74) | |
|-------------------------------------------------------|------|
| Understand Options Better Than Before | 99% |
| Understand How to Work with Lender Better Than Before | 100% |
| Satisfied Overall | 92% |

Almost all participants thought the mediation process was fair

| Mediation Participant Experience | | |
|----------------------------------|-----------------|-------------------|
| | Party (n = 163) | Attorney (n = 79) |
| Satisfied Overall | 85% | 80% |
| Satisfied with Outcome | 76% | 82% |
| Process was Fair | 94% | 97% |

IMPORTANT FINDINGS

The program has the second highest rate of home retentions for homeowners who complete the program

Of those who completed the program, 58% reached an agreement to retain their home. Another 10% reached an agreement to [exit gracefully](#). This is the second highest rate of home [retention](#) and of [foreclosure avoidance](#) of all the programs, and the highest among programs that do not remove homeowners who are not likely to reach agreement.

Homeowners had a positive experience in the program

From the informational session through mediation, homeowners indicated they felt they were being provided with good information, had been treated fairly and with respect and had a positive experience in the program. They wrote particularly positive comments about their experience in housing counseling.

The program has, by far, the shortest time to completion of all the programs

The average of 63 days to complete the program is 17 days shorter than any other program.

The program has the lowest participation rate of any program

Only 11% of eligible homeowners attended an informational session, and only 7% entered the program. The low participation rate is attributable to the difficulty of entry.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO ADDRESS?

The judges hearing foreclosure cases noticed that there were large numbers of unrepresented homeowners who were trying to obtain loan modifications, but were unable to communicate with their [lenders](#). The homeowners did not have a single point of contact when they spoke with their lenders, and they were getting different answers from each person they talked with. The homeowners also complained that their lenders were losing the documents they sent for review.

The program was meant to formalize the interactions between the homeowners and lender. The court also wanted to require lenders to give homeowners their attention and a clear resolution, whatever that resolution was. No matter what the outcome, the court wanted to give homeowners interested in avoiding foreclosure the opportunity to explore the possibility of a loan modification or other alternative with the assistance of a trained neutral.

PROGRAM ADMINISTRATION

The program is administered by Resolution Systems Institute. It is managed by a full-time program coordinator, who is an RSI employee. Program partners are two HUD-certified housing counseling agencies: Affordable Housing Corp of Lake County (AHC) and Consumer Credit Counseling Services of Northern Illinois (CCCS). AHC conducts the vast majority of pre-mediation housing

counseling sessions, while CCCS began to provide this service in December 2014. A panel of 23 private mediators trained in foreclosure mediation by RSI conducts the mediations.

ELIGIBLE CASES

All homeowners whose residential mortgage foreclosure cases were filed after December 1, 2013, can request entry into the program, so long as they live in the residence or have the right to return to it. Homeowners whose cases were filed prior to that date can motion the court to order the case to mediation, so long as there is no judgment against them and no motion for summary judgment is pending. This came into practice in July 2014. In December 2014, judges started ordering cases into the program on the court's own motion.

NOTIFICATION AND OUTREACH

The primary methods the program uses to notify homeowners of their opportunity to participate include information homeowners receive with their [summons](#) and a postcard the program coordinator sends shortly thereafter. Occasionally, the program coordinator has a phone number for the homeowners, in addition to their mailing address, and will then attempt to reach out to the homeowners by phone. The court has a [web page](#) with information on how to learn more. The program also has a [brochure](#) and one-page FAQ that are available at the courthouse, housing counseling offices, local libraries and social service provider offices, and with government officials.

Program staff has initiated a number of other efforts to recruit homeowners, as well. The focus has been on gatekeeper outreach, meaning spreading the word to other community leaders, so that they can then take the message to those they serve. The program coordinator has contacted state and district officials, attended community events and spoken at housing fairs and to church groups. AHC has also conducted gatekeeper outreach for the program, focusing especially on reaching the Latino community. In addition, the program coordinator and the judges who with the program have made presentations at county board and township meetings. One of the foreclosure judges was interviewed on local access television, as well.

ENTRY PROCESS

All residential foreclosure cases are stayed for 42 days from the date of [service of process](#) or court order. To participate in the program, homeowners must attend a group informational session within 35 days of receiving the summons. They then have seven days from the informational session to call AHC to schedule a housing counseling session. This session must take place within 30 days of the informational session. Once the housing counseling session is scheduled, the homeowners are considered to be in the program and the case is stayed an additional 30 days from the date they attended the informational session.

PROGRAM PROCESS

Pre-Mediation Phase

After scheduling their housing counseling session, homeowners prepare their [loan modification packets](#), which should be complete and provided to their housing counseling agency a week before the scheduled session. Prior to December 2014, homeowners brought the documents to AHC, which is located in the southeastern part of the county. In December 2014, homeowners gained the option of dropping off their packets at the more centrally-located foreclosure mediation program office or at Mano a Mano, a housing counseling agency in the northwestern part of the county. If the homeowners drop off their packet during business hours, staff at each of the drop off sites review the packet while the homeowners wait and let them know if anything is missing.

Once the homeowners complete the packet, they meet with a housing counselor at AHC.⁴⁶ During this two-hour session, the housing counselor determines what options might be available to the homeowners, including whether they might be eligible for a loan modification. They also discuss next steps. After the session, the housing counselor submits the packet to the lender – or to the lender attorney, if the attorney has requested receipt of the packet.

Once the packet is submitted, the lender has seven days to review the packet to ensure that it is complete and to request missing documents, although in practice, the lender frequently asks for additional documents after this deadline, and the program permits this. The homeowners then have seven days to provide any additional documents the lender requests. Once the homeowners submit all the additional documents, the housing counselor informs the program coordinator that the case is ready for mediation.

Mediation Phase

The first mediation session must be scheduled between seven and 35 days from the date the housing counselor refers the case to mediation. In practice, the program coordinator schedules the session as close to the 35 day deadline as possible, in order to give the lender sufficient time to review the packet. All mediation sessions need to be completed within 60 days.

The homeowners and lender attorney must attend the mediation in person. A representative from the lender must participate as well, but may do so by phone. In about half the cases, two sessions are required. This is generally because the parties have not completed the document exchange. When the exchange has not been completed, the mediator facilitates the exchange, but also uses the opportunity to discuss other possible options. The sessions take about 1 ½ hours to complete and take place in the program office, which is housed in the 19th Judicial Circuit's Arbitration Center.

⁴⁶ Beginning in December 2014, when CCCS became a program partner, homeowners who were already working with Consumer Credit Counseling Services were able to continue to work with their counselor and did not have to shift over to AHC.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not complete the required documentation within 30 days
- The homeowners do not appear for a housing counseling or mediation session
- The homeowners voluntarily withdraw from the program
- The homeowners and lender do not agree to any option to avoid foreclosure
- The lender does not comply with program rules

If the homeowners and lender agree to a temporary loan modification, the case is terminated from the program and the stay of foreclosure proceedings is lifted. If they agree to another foreclosure avoidance option, the case is returned to court for dismissal.

Judge and Program Administration Perspectives

The program coordinator and one of the foreclosure judges were interviewed to gain their perspectives on the program.

WHAT IS WORKING WELL?

The program is running smoothly. Both the judge and program coordinator point to housing counseling as a strength of the program. The judge noted that AHC is very good and very effective. The housing counselors do a good job of communicating with lenders. At least six cases settled prior to a first mediation session because housing counselors were able to help the homeowners obtain a temporary loan modification.

Once homeowners enter the program, the program does a good job of helping homeowners and lenders come to agreement. The program coordinator noted that most mediators are more than willing to mediate more than one session and work well with her to ensure that they understand the needs of a particular case. While housing counselors have worked diligently to help homeowners explore all of their options and to think realistically about their situations, the mediators have also been trained to reality test options with both parties to ensure that agreements are practical and durable.

The program coordinator also mentioned that the judges are supportive and responsive to the need to make changes to the program. Judges participate in outreach and are active in efforts to make the program work. Both the judge interviewed and program coordinator pointed to the helpfulness of the monthly meetings among judges, program staff, housing counselors and other stakeholders to go over processes and discuss issues.

CHALLENGES

Both the judge and the program coordinator recognize that program usage is too low because the barriers to entry are too high. This has led the court to expand the program to include cases filed prior to the program's launch on the homeowner's motion. This, too, proved difficult for unrepresented homeowners who did not know how to file a motion. The court has since changed its rule to clarify that judges can order cases to mediation on the court's own motion.

The court is working on rule revisions that would eliminate the requirement that the homeowners attend an informational session. Instead, the homeowners would enter the program by calling the program coordinator to conduct intake and to schedule a housing counseling appointment. The judges now also order cases in on their own motion, rather than requiring homeowners file a formal motion to be referred into the mediation program. Additionally, the program has started allowing homeowners currently working with Consumer Credit Counseling Services of Northern Illinois to continue working with that agency while participating in the program, thus providing easier access to the program for those homeowners.

Another challenge has been getting both lenders and homeowners to comply with the stringent deadlines for document submissions and packet review. The lenders have complained that the time they have to review packets is too short. Homeowners have had difficulty meeting deadlines for both submitting their packets and for providing the additional documents the lenders request. The short deadlines also impact the mediation, as the first mediation often becomes a document exchange facilitation, necessitating further mediation sessions to conduct negotiations. This creates issues with the program's 60-day limitation of the time in mediation. There have been situations in which the mediator and both parties agreed that an additional mediation session would have been helpful and might have resulted in an agreement, but the parties were unable to hold an additional session. Even if all parties agree, the case must exit mediation within the 60-day timeframe, meaning that the program coordinator does not have the flexibility to allow the case to continue for another session. The program has emphasized in these cases that both homeowners and lenders can always motion the court to re-enter the program. However, it does not appear that parties on either side are following through with the motion.

The program has dealt with lenders' difficulty in complying with the timeframes by informally extending the seven day deadline the lender initially has to confirm that they have received a complete packet. This is done to avoid returning the case to court, thus punishing the homeowner because the lender cannot meet the deadline. However, the deadline for lenders to complete packet review is firm and can be tight. The review by rule should be done prior to mediation. The mediation then must be completed within 60 days. The program has responded by proposing rule revisions that would extend deadlines for packet submission, lender review and time in mediation.

Program Characteristics

The 19th Circuit program helped more homeowners than any other program but the 16th Circuit. However, it has the lowest participation rate, making it the second smallest program despite having the highest number of foreclosures. The homeowners report learning about the program from a diversity of sources, a probable result of the extensive outreach the program conducts. Judges did not refer many cases during the evaluation period, but according to the program coordinator that has since changed.

PROGRAM SIZE

This program helped the second highest number of homeowners

The program helped 238 eligible homeowners in 2014, more than any other except the 16th Circuit program. However, in terms of the number of homeowners entering the program, it is the second smallest, despite having by far the most residential foreclosures.

| Annual Numbers | |
|--------------------------------|-------|
| Foreclosures Filed | 2,130 |
| Attended Informational Session | 238 |
| Entered Program | 155 |

CASE CHARACTERISTICS

All homeowners are required to attend a group informational session to orient them to the foreclosure process and the foreclosure mediation program. They then must attend housing counseling before participating in mediation.

Referral Sources

Referrals to the informational session come from a variety of sources

This is different from other programs, in which the vast majority of homeowners learn about the program through their summons or the judge.

| Referral Source (n = 538) | | |
|------------------------------|-----|-------|
| Court/Judge/Summons/AHC | 186 | 34.6% |
| Lender/Attorney | 137 | 25.5% |
| Government Agency | 55 | 10.2% |
| Word of Mouth | 50 | 9.5% |
| Outreach Events/Mailings | 46 | 9.3% |
| Non-profit/Services Agencies | 25 | 4.6% |
| Other | 39 | 7.1% |

WHAT DOES THIS MEAN?

First, note that the referral source is for homeowners who attended informational sessions, of whom 54% were not eligible for the program. This may have had an impact on how the homeowners learned of the informational session. Nonetheless, the court and program staff have worked hard to make homeowners and those who work with them aware of the program. These outreach efforts may have contributed 33% of the homeowners who attended the informational session.

When Cases Are Filed/How Referred**Judges referred few cases into the program**

Three cases were filed before the program start date. All the others were filed after the program began.

Four cases were referred by the judge: the three cases filed before the program launched and one other filed after. All of the other cases came in at the time the homeowners received their summons.

WHAT DOES THIS MEAN?

Judge referrals offer more homeowners the opportunity to participate in the program. Referrals of cases that were filed prior to the program launch date expand eligibility, while referrals of cases filed after the launch date offer eligible homeowners a second opportunity to enter the program. Both types of referrals have been effective in helping homeowners to keep their homes in the 20th Circuit program. The fact that only four homeowners were referred means that the court is missing the opportunity to help more homeowners in this program.

⇒ **Recommendation:** At the end of the evaluation period, judges began to refer cases on the court's own motion. The judges should continue to refer homeowners into the program, when appropriate.

Program Performance

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lenders
- How many of those outcomes are positive – either retentions or [relinquishments](#), with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Participation | 155 homeowners entered the program in the first year |
| Impact | The program benefits 11% of all homeowners facing foreclosure |
| Outcomes | 29% of participants kept their homes 49% did not complete the program 69% of homeowners who completed the program avoided foreclosure 85% of homeowners who avoided foreclosure kept their homes |
| Agreement Rate | Mediation resulted in agreement in 62% of cases |
| Participant Experience | Homeowners felt respected and treated fairly; the great majority were satisfied with their experience and the outcome |
| Time in Program | Cases averaged 63 days to complete the program |

PROGRAM ACTIVITY

Case Status

More than 200 homeowners were helped in the program's first year. Of those, 39 were able to keep their homes.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-------|
| Foreclosures Filed | 2,339 |
| Attended Informational Session | 238 |
| Entered Program | 155 |
| Closed | 135 |
| Home Retentions | 39 |
| Voluntary Relinquishments | 7 |
| No Agreement | 21 |
| Program Not Completed | 44 |
| Pending | 20 |

Sessions Held

Pre-mediation

Pre-mediation services are provided by a housing counselor, who meets with the homeowners to go over their financial information, advise them of their options and discuss the foreclosure process. The housing counselor submits the loan modification packet, and then facilitates the document exchange process.

Housing Counseling Activity

| | |
|----------------------------------|------|
| Housing Counseling Sessions Held | 125 |
| Average Hours in Session | 2.33 |

Mediation

Mediation services are provided by foreclosure-trained mediators. Mediation may start with document exchange, and then move into negotiation once the lender completes the review of the homeowners' packet. Mediations take one to three sessions to complete.

Mediation Activity

| | |
|-------------------------------------|------|
| Mediation Sessions Held | 70 |
| Average Hours in Session | 1.38 |
| Average Hours Preparing for Session | 0.65 |

PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by the program. This includes providing information to homeowners about the foreclosure process and possible options for their homes, helping them to submit their loan modification packets, and facilitating negotiations with their lenders.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowners may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and therefore do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

The program has the lowest impact on eligible homeowners of any of the programs

The 19th Circuit program has benefitted 11% of eligible homeowners facing foreclosure. A projected 2.5% avoid foreclosure, almost all of them keeping their home. These numbers give the program the lowest impact of all of the programs funded by the Attorney General.

Impact – All Eligible Foreclosures

| | 19 th Circuit | Comparison |
|---------------------------|--------------------------|---------------|
| Homeowners Helped | 10.9% | 10.9% - 67.6% |
| Foreclosure Avoidance* | 2.5% | 2.5% - 26.5% |
| Retention* | 2.1% | 2.1% - 14.2% |
| Voluntary Relinquishment* | 0.4% | 0% - 12.3% |

*These are projected percentages based on cases already closed.

The full 11% of eligible homeowners the program helps obtain assistance when they attend a group informational session. At this session, a housing counselor orients them to the foreclosure process, the options available to them and the foreclosure mediation program. Thus, 11% of homeowners get information that helps them navigate the foreclosure process, whether or not they move forward in the program. The program then assists homeowners continuing in the process to try to avoid foreclosure by helping them submit their loan modification packets to their lenders and then by helping them to negotiate with their lenders.

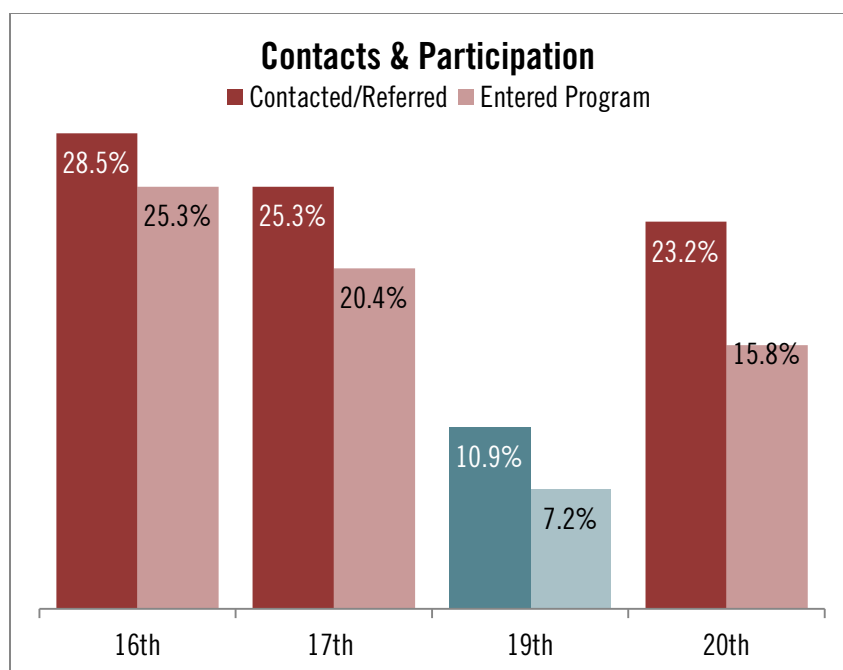
PARTICIPATION

Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In the 19th Circuit program, homeowners are considered to participate if they first attend an informational session, and then contact the housing counseling agency to schedule a pre-mediation session. This means homeowners can start the process to enter the program and not complete it. Thus, the program has two tasks in bringing homeowners into the program. The first is encouraging homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

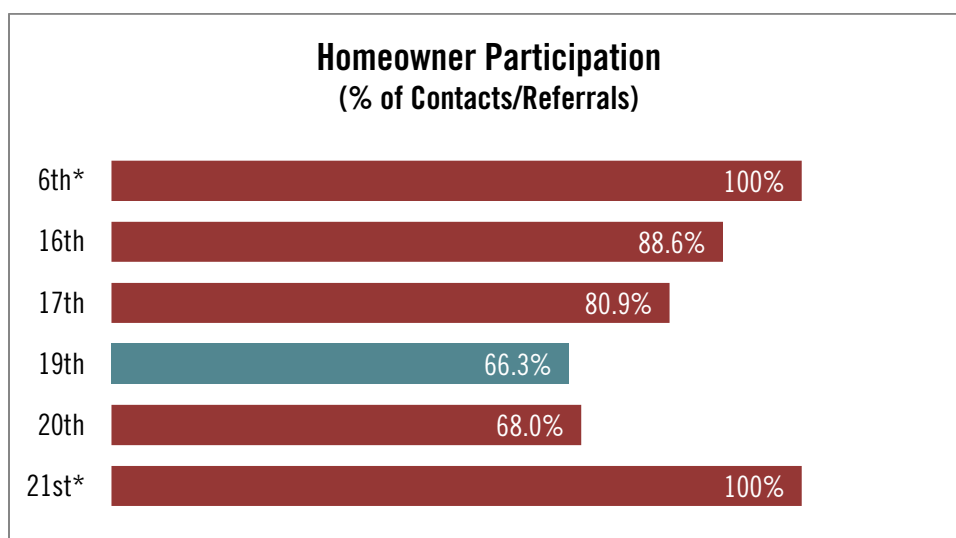
The program has the lowest first contact rate of any program

About 11% of eligible homeowners attended an informational session, and about 7% eventually completed the steps to enter the program. These percentages are 12% and 8% lower than the next lowest program, respectively.



The program has the lowest rate of getting homeowners who contacted the program to participate in it

Only 66% of homeowners who attend an informational session later contact the housing counseling agency to schedule a pre-mediation session.



* One-step entry programs.

WHAT DOES THIS MEAN?

The program is struggling in two ways to recruit homeowners. First, it is struggling to get them to the informational session. Second, it is struggling to get them to enter the program once they have attended the informational session.

It is not a coincidence that the program also has the highest hurdles to entry. This is the only program in which the homeowners must attend an informational session. The court included this requirement in the rule so that homeowners were oriented in a more efficient way than having the housing counselors speak individually with them. However, the low percentage of homeowners who attend indicates the difficulty homeowners have with this requirement.

The next hurdle the homeowners must surmount in order to participate is to complete their packet before attending a housing counseling session and, during most of the evaluation period, drop it off at the housing counseling agency. These are difficult steps for people to do without assistance. Next, they must attend housing counseling. This in itself is a good requirement. As will be seen below, housing counseling is helping homeowners and providing them with a good experience. However, during most of the evaluation period housing counseling was provided by one agency, AHC, in their offices in the southern part of the county. Foreclosures, on the other hand, were clustered in the north. With many homeowners lacking transportation, attending housing counseling may have been too big a burden, as only 65% of homeowners who attended the informational session contacted AHC for a housing counseling session. As seen in the heat maps in [Appendix D](#), homeowners in the north were much less likely to participate in the program than those who lived closer to AHC's offices.

The program coordinator and RSI staff recognized these issues and proposed the court rule be changed to make participation in informational sessions voluntary. They also reached out to other housing counseling agencies that could provide services in the north, and then asked the court to approve them as partner agencies in the program. CCCS began working with the program in December 2014. Catholic Charities was approved after the evaluation period ended.

OUTCOMES

What happens when homeowners enter the program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot and should not expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some

may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

The most likely outcome for homeowners who entered the 19th Circuit program was for them to leave the program before completing it, with almost half of them doing so. More than a third reached an agreement to avoid foreclosure. If homeowners completed the program, they were very likely to keep their homes.

Closed Cases

Almost 1 in 3 homeowners who entered the program were able to keep their homes

More than a third of homeowners who entered the program avoided foreclosure and almost 30% kept their homes. However, almost 50% of homeowners did not complete the program.

| Outcomes of Closed Cases (n = 135)* | | |
|-------------------------------------|----|-------------------|
| | # | % of closed cases |
| Agreement: Retention/ TPP | 39 | 28.9% |
| Agreement: Relinquishment | 7 | 5.2% |
| No Agreement | 21 | 15.6% |
| Program Not Completed | 66 | 48.9% |

*Two cases had outcomes marked as “other.”

WHAT DOES THIS MEAN?

The percentage of homeowners who avoided foreclosure is in line with the other programs in the study.

Completed Cases

The program excels at helping homeowners who complete the program avoid foreclosure

The program’s 69% rate of foreclosure avoidance is second only to the 17th Circuit program, where only homeowners who are viable for a loan modification negotiate with their lenders. The percentage of homeowners who keep their homes is also behind only the 17th Circuit program.

| Outcomes of Completed Cases (n = 67)* | | |
|---------------------------------------|----|------------------|
| | # | % of completions |
| Agreement: Retention/ TPP | 39 | 58.2% |
| Agreement: Relinquishment | 7 | 10.4% |
| No Agreement | 21 | 31.3% |

*Two cases had outcomes marked as “other.”

WHAT DOES THIS MEAN?

The comparatively high rate of retentions means that the program does a good job of helping homeowners who do complete the program to keep their homes. The 16th Circuit program is the closest comparison to the 19th Circuit program in terms of the process taken to achieve outcomes. The 19th Circuit has nominally better outcomes, with 8% more homeowners retaining their homes and 4% more avoiding foreclosure.

Types of Retentions

Most homeowners received a temporary loan modification, which may have later turned into a permanent modification.

| Retention Outcomes (n= 39) | | |
|-----------------------------------|----------|------------------------|
| | # | % of Retentions |
| Temporary Loan Modification* | 25 | 64.1% |
| Permanent Loan Modification | 10 | 25.6% |
| Forbearance | 2 | 5.1% |
| Reinstatement | 1 | 2.6% |
| Installment Plan | 1 | 2.6% |

*These are modifications that have not completed their trial period or for which the program does not have information on whether they converted to permanent modifications.

Conversion of Temporary Loan Modifications

Of the 11 cases for which there is data on conversions, eight converted successfully.

If a temporary loan modification is converted, it means that the terms agreed to were effective, in that the homeowners could feasibly comply with them. The conversion rate also gives a more accurate picture of the number of homes saved, because, if the temporary modifications are not made permanent, the foreclosure process continues. There is too little data to determine whether overall temporary loan modifications are being converted.

Types of Voluntary Relinquishments

Short sales were the most common form of voluntary relinquishment.

| Relinquishment Outcomes (n= 7) | | |
|---------------------------------------|----------|------------------------|
| | # | % of Retentions |
| Short Sale | 4 | 64.1% |
| Deed in Lieu | 2 | 28.6% |
| Unknown | 1 | 5.1% |

Program Completion

Voluntary withdrawal is the most common reason for exiting the program early

One-third of homeowners withdrew from the program voluntarily. Most of the others did not appear for a scheduled session or did not complete their packets on time. Four cases were returned to court because the lenders did not comply with the program rules.

| Reasons Homeowners Leave Program (n = 66)* | | |
|--------------------------------------------|----|--------------------|
| | # | % of Non-Completes |
| Homeowner Withdrew | 27 | 40.9% |
| Homeowner Did Not Appear for Session | 23 | 34.8% |
| Did Not Complete Documentation | 17 | 25.8% |
| Lender Non-Compliance | 4 | 6.1% |
| Other | 2 | 3.0% |

*There can be more than one reason that a homeowner leaves the program. Therefore, the number of reasons is greater than the number of homeowners.

WHAT DOES THIS MEAN?

Homeowners who are marked as withdrawing were the ones who told either the housing counselor or the program coordinator of their decision not to continue with the program. According to the program coordinator, these are homeowners who were not able to complete their documentation on time due to the program's short deadlines. The ones who are marked as not completing their documentation or not appearing for a session may have had the same problem and just not communicated it to the housing counselor or program coordinator. It is not clear, then, how many homeowners left the program because they could not comply with the program deadlines, and how many left because they decided it was better to let the foreclosure process continue or because they achieved a satisfactory outcome on their own.

⇒ **Recommendation:** Homeowners not appearing for their housing counseling session is an issue. It is not clear why the homeowners do not arrive for a session they scheduled – whether it is due to a comparatively short amount of time to complete their packet, the location of housing counseling or some other reason. The program is making changes that should make attending a session easier, including providing more options for where homeowners may drop off their completed packets prior to the session and partnering with housing counseling agencies that will conduct sessions in other parts of the county. The program should monitor whether these changes affect homeowner appearance rates.

Outcomes by Program Phase

Pre-Mediation

10% of homeowners avoid foreclosure in the pre-mediation phase

Homeowners are most likely to be referred to mediation at the end of pre-mediation, though many exit the program before referral. About 10% of homeowners achieve some form of retention or relinquishment option prior to mediation.

| Outcomes (n = 142)* | | |
|-------------------------------|----|-------|
| Referred to Mediation | 69 | 48.9% |
| Trial Period Plan | 11 | 7.8% |
| Agreement: Retention | 1 | 0.7% |
| Agreement: Relinquishment | 1 | 0.7% |
| No Agreement | 1 | 0.7% |
| Closed: Program Not Completed | 58 | 41.1% |

*One was marked other

WHAT DOES THIS MEAN?

The housing counselors are getting positive results in the majority of cases: they helped 59% of homeowners to complete their packets, and then helped 12 to reach agreement to keep their homes. As in the other programs, most of the homeowners who leave the program without completing it do so at this phase.

Mediation

More than 6 in 10 homeowners reach agreement in mediation

In all, 62% of homeowners who complete mediation reach agreement to avoid foreclosure, while 51% keep their home.

| Mediation Outcomes (n = 61) | | |
|-------------------------------|----|-------|
| Trial Period Plan | 20 | 32.8% |
| Agreement: Retention | 7 | 11.5% |
| Agreement: Relinquishment | 6 | 9.8% |
| No Agreement | 20 | 32.8% |
| Closed: Program Not Completed | 8 | 13.1% |

WHAT DOES THIS MEAN?

The agreement rate for homeowners who complete mediation is 9% higher than the agreement rate in the 16th Circuit program, which is the most directly comparable to the 19th

Circuit's, and is on the high side for programs nationally.⁴⁷ However, only 53% of homeowners who are referred to mediation reach agreement. The difference is the eight homeowners who did not complete mediation. The non-completions are more numerous than in the other programs that regularly mediate cases. This is due to the program returning cases in which the lender did not comply with the local court rule for the program. In four of the eight cases, the case was returned to court due to lender non-compliance. In another, the lender did not complete the review in time for the mediation to conclude within the 60-day deadline.

TIME IN PROGRAM

The 19th Circuit program has the shortest time to completion of any of the programs

It takes cases on average two months to complete the program. Those cases that do not complete the program exit on average in a little over one month.

| Average days... | | How calculated... |
|----------------------------------------------------|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From filing to close | 77 | From filing to program exit |
| From program entry to program exit | 49 | From date homeowners contact housing counseling to schedule session to program exit |
| From program entry to program exit – completed | 63 | From date homeowners contact housing counseling to schedule session to program exit – cases that ended with an agreement or no agreement |
| From program entry to program exit – not completed | 36 | From date homeowners contact housing counseling to schedule session to program exit – cases in which the homeowners withdrew or did not comply with program requirements |
| In pre-mediation phase | 28 | From date homeowners contact housing counseling to schedule session to date scheduled for mediation or program exit |
| In mediation phase | 34 | From date referred to mediation to program exit |

WHAT DOES THIS MEAN?

The court placed emphasis on the speedy completion of the program. Homeowners and lenders have 44 days to complete the packet, review it and conduct document exchange. The program then limits the mediation process to 60 days. Cases are ostensibly making it through the process within the allotted 104 days, with completed cases averaging 63 days to conclude. However, 17% of homeowners withdrew, and according to the program coordinator, many did so because they could not complete their documentation on time. Lenders, too, have reported that the seven days they have to review the homeowners' packets is too short.

⁴⁷ For national statistics, see: Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE MEDIATION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

⇒ **Recommendation:** Deadlines need to be lengthened for the pre-mediation process so that both homeowners and lenders have a feasible amount of time to complete the review and document exchange process. The court's pending rule change should remedy this.

PARTICIPANT EXPERIENCE

Homeowners completed questionnaires at the end of the informational session, after they completed housing counseling and, along with the representative from the lender and the attorneys, at the end of each mediation session.

Informational Session Questionnaire⁴⁸

Both eligible and ineligible homeowners may attend the informational session. Thus, 653 homeowners from 531 cases completed the questionnaire; however, homeowners from only 238 cases were eligible for the program.

Homeowners who attended the informational session rated it highly, with almost $\frac{3}{4}$ giving a rating of “excellent” for the session overall. More than $\frac{3}{4}$ felt they were leaving with a much better understanding about their options and the foreclosure mediation program.

| | Excellent | Good | Poor | Very poor |
|--------------------------------------------------------------|-----------|----------|------------|-----------|
| Overall class rating | 73.6% | 26.1% | 0.2% | 0% |
| Rate presentation of material | 76.5% | 23.2% | 0.3% | 0% |
| Rate knowledge of material | 80.5% | 19.2% | 0.3% | 0% |
| Rate organization of material | 78.9% | 20.8% | 0.3% | 0% |
| | Very much | Somewhat | Not at all | |
| Understanding of the options available to you | 80.6% | 18.8% | 0.5% | |
| Understanding of how the foreclosure mediation program works | 77.8% | 20.9% | 1.3% | |
| Understanding of how to contact AHC | 87.7% | 11.8% | 0.5% | |
| | Yes | No | Don't know | |
| Eligible to participate in mediation? | 68.0% | 15.7% | 16.3% | |

⁴⁸ All homeowners completed a questionnaire at the end of the informational session, whether they were eligible for the program or not.

Homeowners found the sessions to be informative, with almost all leaving with a greater understanding of their options and of how the foreclosure mediation program works. Most felt they understood these very well. Most homeowners who commented on what they liked about the session mentioned the information they received:

- “Very Informative.”
- “Very concise and thorough explanation of the options and how to proceed.”
- “Information and options.”
- “I learned more about what to do about the house.”
- “Great presentation of information.”
- “Concise information. Very knowledgeable presenter.”
- “Learned about answers to questions that I didn't know to ask.”
- “Options that I wasn't aware of before class.”

Homeowners also appreciated that the housing counselors presented the information in simple terms they could understand:

- “Easy to Understand. Explained well.”
- “Lots of information explained very clearly. Fast pace.”
- “What I like the most is that [the housing counselor] was very clear explaining everything. The information will be very useful. Thanks.”
- “The knowledge of Instructor and how well she presented and made it easy to understand.”
- “How it was taught in simple words in group.”
- “Explained everything in English not Bankish.”
- “Presenter was well-spoken and explained well for easy understanding.”

Many homeowners wrote about the way the housing counselors made them feel. This is a theme throughout the mediation program process as well, demonstrating how much this matters to homeowners:

- “Relaxed presenter made me very comfortable.”
- “The presenter laid the information out in a non-judgmental fashion. Fact-based and compassionate.”
- “Low stress/ non-confrontational.”
- “Personable and helpful.”
- “Friendly and not belittling.”
- “That someone cares.”
- “La buena disposicion de las personas del grupo AHC.” [The nice disposition of the people from AHC.]
- “No judgments!”

A few had the same thought – that they now had hope:

- “Hope for the future.”
- “Gives me hope.”
- “Gave me a feeling of way out.”
- “Very informative. Provided hope.”

Homeowners who commented on what they did not like about the session tended to note that the information was a lot to take in in such a short amount of time. Although the quick pace was seen by others as a positive aspect of the session, it was difficult for some homeowners:

- “Too much info in short time.”
- “Lot of information – which was overwhelming but I feel it was all necessary.”
- “Retaining all the information – being sure all is understood and learning how to proceed. There was an attorney in the audience and he even misquoted what he thought he heard relating to timeline responses.”
- “Fast paced but I understand it's a lot of content within a short time.”
- “Too short of time for amount of information.”

A few mentioned that they would have liked the slide handouts at the beginning of the session, so that they could take notes on them.

⇒ **Recommendation:** The program should consider creating a video version of their session even if the rule is not changed to make the session voluntary. This would allow homeowners the opportunity to go over the information again at their leisure. Another option would be to create two videos – one that covers all the information currently provided in the informational session and one that focuses on the mediation program and its requirements. This would allow homeowners to focus on what they need to do in order to participate and complete the mediation program.

Pre-Mediation Session Questionnaires⁴⁹

Homeowners were very satisfied with their experience in housing counseling and felt that they gained information that helped them understand their options and how to work with their lenders. They also all felt they were treated very fairly and with very much respect. Their high regard for the process is also telling in their comments, which were not only positive, but lengthy.

⁴⁹ The housing counselor hands the homeowners the questionnaire after they have completed the final session. The counselor leaves while the homeowners complete the questionnaire, and ask the homeowners to put it in a box by the door as they leave. In all, 86 homeowners in 85 cases responded to the survey. This is a 70% response rate.

Pre-Mediation: Procedural Justice

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a significant impact on parties' satisfaction with the justice system and their perception of its fairness.⁵⁰ Research has found that the most important characteristics of procedural justice are voice (the sense that one's voice has been heard in the process) and respect (the sense that one's feelings, ideas, and positions have been treated with respect in the process).⁵¹ To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

All homeowners felt they were treated very fairly and with very much respect by the housing counselor.

| Pre-Mediation: Respect and Fairness (n=86) | | | |
|--------------------------------------------|-----------|----------|------------|
| | Very much | Somewhat | Not at all |
| Did the counselor treat you with respect? | 100% | 0% | 0% |
| Did the counselor treat you fairly? | 100% | 0% | 0% |

More than a third of homeowners talked about how the housing counselors treated them:

- “[The housing counselor] was extremely kind and respectful.”
- “[The housing counselor] was very kind, understanding, very helpful!”
- “[The housing counselor] is very positive, polite.”
- “[The housing counselor] is a true professional. Very helpful and pleasant.”
- “I truly appreciate the compassion and understanding! I felt very comfortable and relieved as this has been very stressful.”
- “Very professional and polite. Great!”
- “It is good to know she cares and is on my team.”
- “The open-ness. No bullsh**ting! She's very honest!! I felt like myself, not nervous.”
- “Amazingly personable, attentive and responsive to all questions.”

WHAT DOES THIS MEAN?

The homeowners' responses and comments demonstrate that they are feeling that they are being treated with the respect the court hoped the mediation program would provide.

⁵⁰ Alan E. Lind, “In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System,” *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

⁵¹ *Id.*

Pre-Mediation: Understanding

All homeowners who completed pre-mediation left with a greater understanding of their options and how to work with their lenders. Most felt that they gained “very much” understanding.

| Pre-Mediation: Increase in Understanding (n=86) | | | |
|-------------------------------------------------------|-----------|----------|-----------------------|
| | Very much | Somewhat | No, understood before |
| Understand options better than before | 75% | 23.9% | 1.1% |
| Understand how to work with lender better than before | 75% | 25% | 0% |

More than two-thirds of homeowners who commented on what they liked about the housing counseling session said they appreciated the amount of information they received:

- “Full explanation of process and what to expect.”
- “She explained to me better what the bank is looking for.”
- “Counselor was very helpful in understanding the situation and explaining the options.”
- “The sessions were very thorough. The counselor spoke clearly and gave examples of what was expected of the borrower getting paperwork into their office and what the lender also expected of the borrower.”
- “[The counselor] went over every piece of paperwork with us and explained every process we will be going through very clearly and with patience. It was very helpful.”
- “Very thorough - thank you for all your advice and answers to our questions. Much easier than working with the bank.”
- “[The counselor] is tremendously knowledgeable and explained everything in detail and left nothing for us to worry about. She's a gem!”
- “Went over all documents/ program thoroughly. Provided action items. Went through the process and what to expect.”

WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. With all but one homeowner saying their understanding increased, the program is doing well in this respect.

Pre-Mediation: Satisfaction

Most homeowners were very satisfied with their experience in pre-mediation

| Pre-Mediation: Satisfaction (n = 86) | | | | |
|-----------------------------------------------------|----------------|-----------|-------------|------------------|
| | Very Satisfied | Satisfied | Unsatisfied | Very Unsatisfied |
| How satisfied are you with your overall experience? | 80.4% | 10.9% | 0% | 8.7%* |

*The homeowners who marked “very unsatisfied” most likely meant to mark “very satisfied,” as all their other responses were positive.

Mediation Session Questionnaire⁵²

All participants had an experience of procedural justice and most were satisfied with the process and outcome. Mediators were largely seen as helpful and non-coercive, although 15% of homeowners felt the mediators pushed too hard. Lender representatives and lender attorneys had reservations about the neutrality and expertise of some mediators.

Mediation: Procedural Justice

In the mediation session questionnaires, the participants’ experience of procedural justice was explored in terms of whether they felt they could talk about their issues and concerns, whether they felt the mediator understood what was important to them, and whether they felt the mediator treated them fairly and with respect.

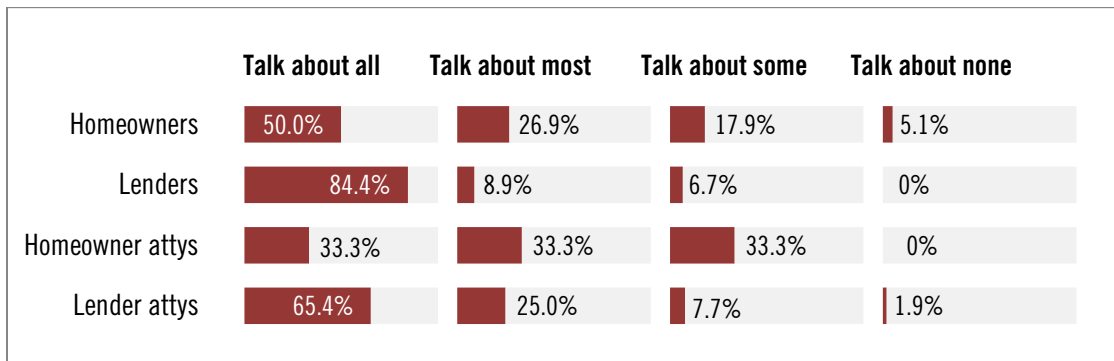
In the 19th Circuit program, the homeowners and homeowner attorneys were less likely than lenders and lender attorneys to feel they were able to talk about the issues and concerns that were important to them. Interestingly, the reverse was true about whether they believed that the mediator understood what was important to them. Almost all homeowners and homeowner attorneys felt that the mediators treated them very fairly and with very much respect. Fewer participants believed the process was fair.

⁵² Mediators hand the participants the questionnaires to complete at the end of each session, then leave the room while they complete them.

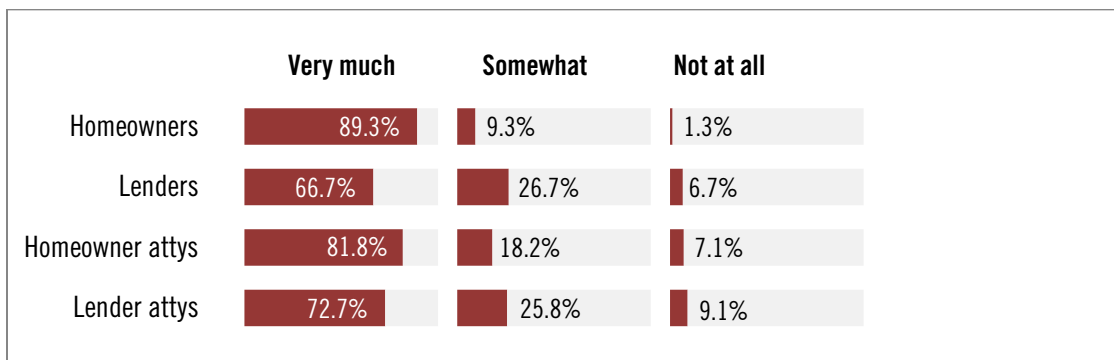
- 78 homeowners in 60 cases responded. This means that at least one homeowner responded in 96.7% of the 62 cases that were mediated
- 45 lender representatives responded, for a 72.6% response rate
- 12 homeowner attorneys responded; their response rate is unknown
- 52 lender attorneys responded, for a 83.9% response rate

Were you able to talk about the issues and concerns that were important to you/your side?

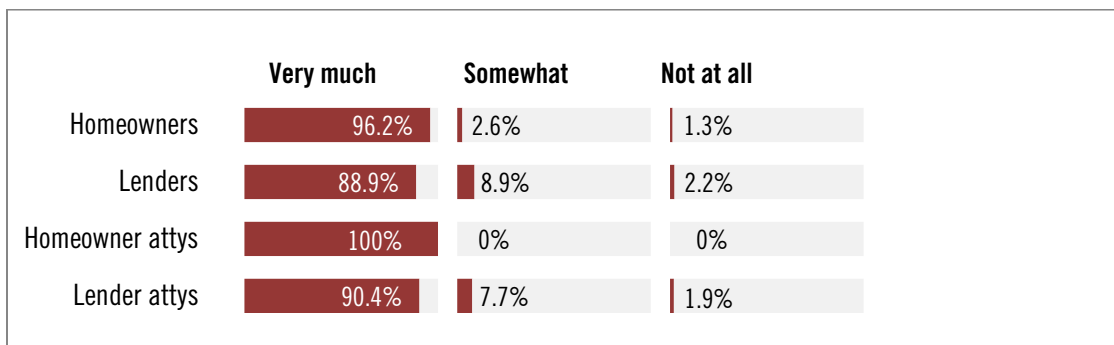
Although most homeowners felt they were able to talk about all or most of their issues and concerns, more than 20% did not.

*Did the mediator understand what was important to you/your side?*

The homeowners were more likely to believe the mediator understood them than to feel they had the opportunity to talk about their issues and concerns. Interestingly, more homeowners and homeowner attorneys felt the mediators understood what was important to them than lenders and lender attorneys. This differs from the other programs in the study.

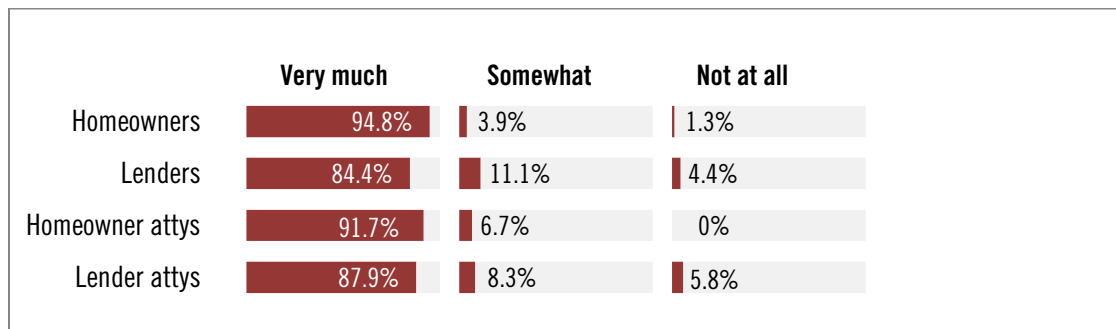
*Did the mediator treat you with respect?*

Almost all participants felt their mediators treated them with very much respect.

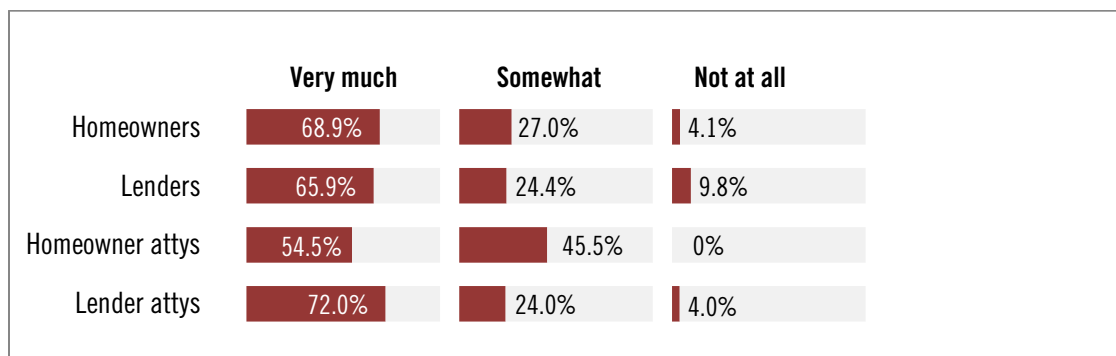


Did the mediator treat you fairly?

Almost all participants felt their mediators treated them very fairly.

*Was the mediation process fair?*

Most participants viewed the process as at least somewhat fair, with 2/3 believing it to be very fair.



Of the 39 homeowners who commented on what they liked about mediation, 17 mentioned procedural justice issues, showing again how important this was to them. Among their comments were:

- “Everything was friendly and fair.”
- “I believe he was fair and pushed to help resolve the matter.”
- “Our mediator. . . was a very kind patient man.”
- “The respect and overall knowledge.”
- “Participants were pleasant.”
- “Everybody was civil and pleasant.”
- “No anger.”
- “The way that all parties respect us. The mediator is a professional and very patient.”
- “Mediator fair and respectful.”
- “Fair and respectfully done.”
- “All parties were every courteous and helpful.”

WHAT DOES THIS MEAN?

The mediators are providing a procedurally just process to all parties. Importantly, they are providing voice to homeowners and treating them with respect, which anecdotally was missing with homeowners' interactions with their lenders. It is concerning that a significant number of lender representatives and attorneys considered their mediator to be biased. The participants were also less likely than in other programs to believe the process was fair.

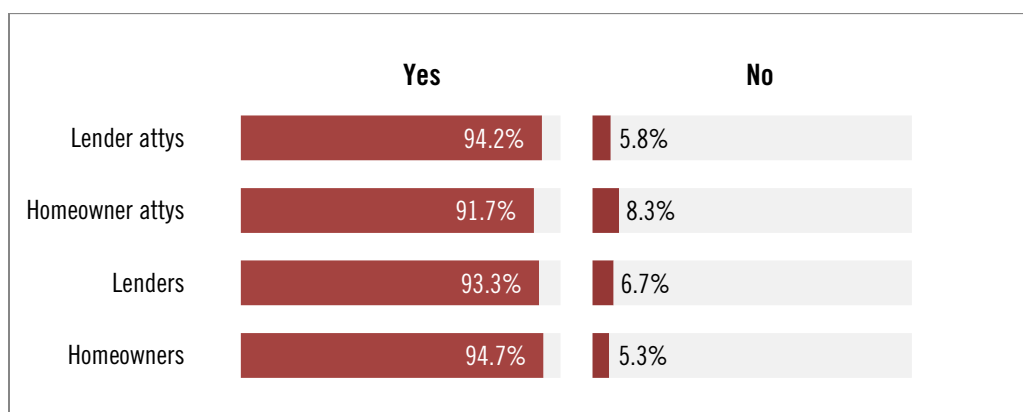
Lenders and lender attorneys were more likely to feel they were able to talk about their issues and concerns. This is likely due to homeowners having a broader range of issues and concerns. As in other programs, participants gave lower ratings to the fairness of the process than to fairness of the mediators. However, unlike in the other programs, lenders and lender attorneys were not more likely to feel the process was fair than homeowners and lender attorneys. This fits with their comments about the bias of the mediator and the difficulty of the process.

Mediator Skills

Effective mediation requires a mediator who walks a fine line between being actively involved in assisting the parties without pushing them into a possible result they do not want. The results show that for some homeowners and lender attorneys, their mediators did not walk that line well. The participants generally believed that their mediators was helpful, though 11 of 78 homeowners and 5 of 52 lender attorneys believed their mediators pushed them too hard to settle. Homeowners and homeowner attorneys, however, were largely happy with the mediators. In contrast, lender representatives and homeowner attorneys were more likely to be dissatisfied with their mediator, with only 2/3 of lender attorneys saying they would definitely use their mediator again.

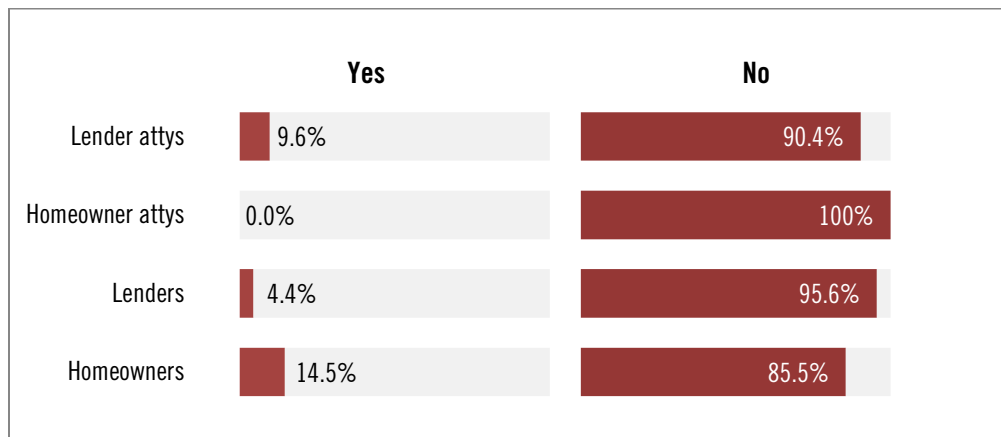
Was the mediator active enough in helping the parties work out the issues in the dispute?

Almost all participants felt their mediators was helpful in the process.

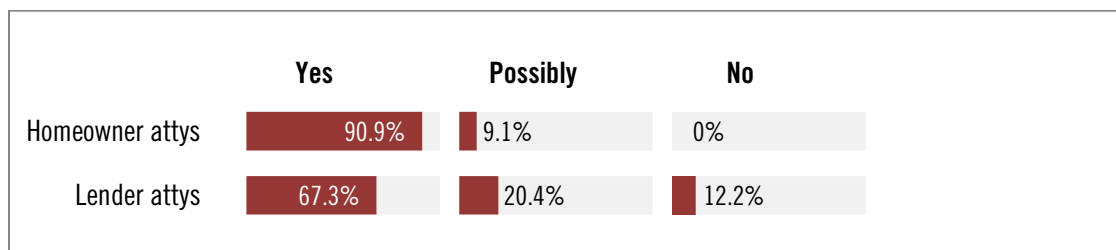


Did the mediator push too hard to get you/your side to settle?

A significant number of homeowners felt their mediator pushed them too hard.

*Would you use this mediator again?*

A third of lender attorneys had reservations about using the mediator for their case again.



Some homeowners indicated their appreciation for their mediator in their comments about what they liked about the mediation. The homeowners only had positive comments about the mediator:

- “Mediator asked questions I did not think of to ask.”
- “Good mediator.”
- “The process and person have been very professional.”
- “Knowledgeable mediator.”

As predicted by 91% of them saying they would use the mediator again, homeowner attorneys were also largely positive about their mediators. Although one criticized their mediator’s passivity, three others had positive comments:

- “Good understanding of the issues and helpful in helping craft a resolution.”
- “Very even-handed treatment. Great skills in reviewing options, what was discussed.”
- “Professional, pleasant, knowledgeable, fair.”

The few lender representatives who commented, on the other hand, were more generally negative in their comments. While one appreciated their knowledgeable and personable mediator, the others were less complimentary:

- “Perceived bias on behalf of mediator.”
- “The actual mediation session itself was longer than needed the lender felt the mediator asked repetitive questions of the borrower in the beginning of the mediation session which took up a lot of our time that was needed to discuss more important issues and concerns. The questions asked were discussing an emotional standpoint which took up 40-45 mins of the mediation even the borrower seemed confused by the repetitive questions.”
- “Mediator not willing to reach out to HUD advisor but reached out on behalf of the other side when they requested.”
- “Pretty much everything about the way the mediation was conducted. The mediator was not neutral and showed favoritism to the other party.”

The lender attorneys were more balanced in their perceptions of the mediators. In answer to why they would or would not use their mediator again, some had positive things to say about the mediators:

- “He was very professional and courteous to all parties.”
- “The mediator was very polite and helpful through the mediation process.”
- “He was very fair and neutral during mediation.”
- “Understood all the issues very helpful in explaining situation to the borrowers.”
- “Friendly; good at recapping and letting parties have private conversations to discuss issues.”

However, some were not as impressed by the mediators for their case:

- “Mediator provided legal advice to borrower that was inappropriate over my objection.”
- “Perceived bias on behalf on the mediator i.e. negative comments.”
- “The mediator wasn't very prepared for this session and seemed like she hadn't conducted a session before.”
- “He was not neutral at all. He was unwilling to understand the lender's position or allow it to reasonably explain its story. He did not foster negotiation or cooperation and sought to force the lender into an agreement. Threatened report of no cooperation for no valid reason.”

WHAT DOES THIS MEAN?

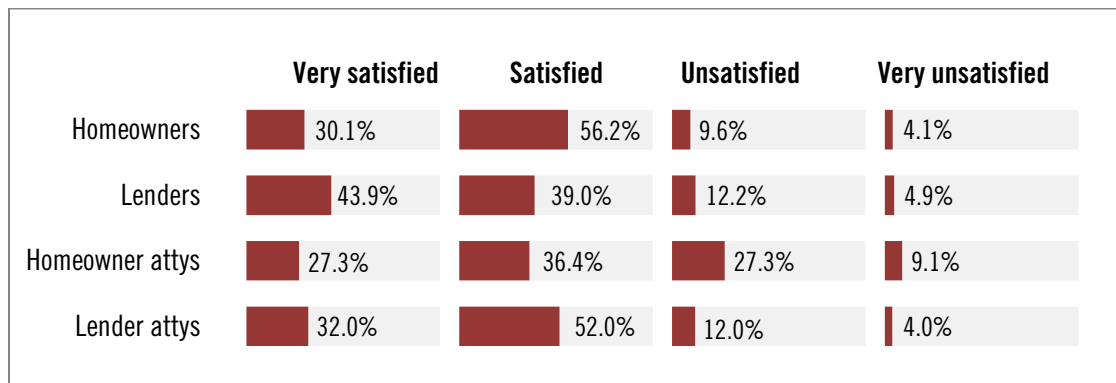
Although most participants indicated that their mediator was doing a good job, there are some red flags. More homeowners than in other programs felt that their mediator was pushing them too hard, and 1/3 of the lender attorneys were not fully satisfied with their mediator.

⇒ **Recommendation:** The program coordinator should continue to debrief with mediators after mediation sessions and discuss participant responses with them. If time permits, she should observe each mediator. If necessary, she should work with the Presiding Judge to consider further action for particular mediators.

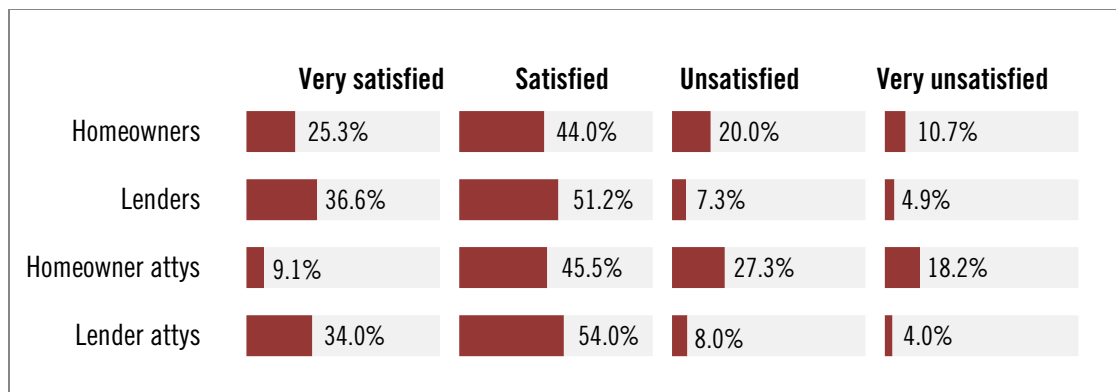
Mediation: Satisfaction

Most participants were satisfied with the process and the outcome, with lender representatives and lender attorneys being slightly more satisfied than homeowners and homeowner attorneys. All groups were most likely to say they were “satisfied” than “very satisfied” and all groups were more likely to be satisfied with the mediation than to be satisfied with the outcome.

How satisfied are you with your overall experience in the mediation session(s)?



How satisfied are you with the outcome?



The reasons behind homeowner satisfaction, in addition to the comments above, included the ability to communicate and to obtain information:

- “Being able to talk directly with the bank on what we need so we can get it turned in.”
- “Knowing what docs with further explanation on what was needed.”
- “Able to talk somewhat with lender.”

- “It was very open.”
- “Understood where the lender was in the process.”
- “Very helpful and good information. Took the pain out of dealing with the issue.”
- “Very neutral environment to discuss issues.”
- “Appreciated our communication.”

Others appreciated procedural aspects:

- “Mediator allowed us to reschedule to obtain proof of disputed amount and to be represented by our counsel.”
- “2nd mediation was nice and short – Agreement made quickly.”
- “That we were able to get a continuance.”

Homeowners who commented on what they did not like had complaints that appear to be similar to those that led the courts to start the program:

- “Nothing with mediation – just didn't like that lender didn't notify that I needed other docs.”
- “It was unfortunate that the plaintiff didn't show for our scheduled appt. at 1:30 on 6/20/14. We were able to organize a conference call which made communication somewhat difficult.”
- “Lender/server rep spoke in private on phone about us. I would appreciate being privy to the conversation about us and why being offered a loan modification with 6.65% interest rate is fair. The market loan rate is 4.15%.”
- “Based on the fact that I and my husband were to be at mediation to discuss options with the lender it was unfair that the lender never picked up the phone and three attempted calls went to “on hold” music.”
- “BOA gave misinformation to AHC and myself and did not have authority to do anything. It was like a customer service call with [lender representative] being unempowered, uninformed and disinterested.”

Others were unhappy with the outcome:

- “We couldn't get to them to go lower with the monthly payment so I'm unhappy about these I was hoping to have help on their side but the mediator help us a lot.”
- “The mortgage company don't be flexible enough to help us to lower the payment that help us keep our house!”
- “Unfortunately the Bank just did not have an option for us.”
- “I wish I knew I could keep my home today.”
- “No se decidio nada. [Did not decide anything.]”

Some lenders and lender attorneys found the overall process to be difficult, primarily because there was not enough time to complete review or document exchange:

- “There was insufficient time to conduct a proper review of the loan modification. The mediation program rules do not provide enough time to the Plaintiff to conduct and complete a review of an applicant's borrower loan modification application.”
- “There may not be enough time in the mediation program to complete the loan modification process due to borrower needing to submit additional documents.”
- “Timing was strange because modification packet still being reviewed by underwriter.”
- “The parties should be allowed to agree to continue mediation. In this case, the communication surrounding outstanding documents was inaccurate. The parties moved forward to resolve this matter in good faith and the program's position that either party participated in bad faith or subject to sanctions is absurd.”
- “The time frame for mediation to be completed within is too short. It doesn't allow the lender enough time to complete a full review of the borrower's case.”

WHAT DOES THIS MEAN?

Although the participants were satisfied with the process, they were less satisfied than in the other programs in the study. The lenders and lender attorneys, in particular, were less satisfied. Their comments indicated that this was because they thought the deadlines for review and document exchange were too short and the mediators were too inexperienced or biased.

⇒ **Recommendation:** The short deadlines are affecting the lenders, as well as the homeowners. The rule changes that include longer deadlines should be approved. In addition, the court should look to have an ongoing dialogue with lender attorneys about the functioning of the program. Such a dialogue could take place during the monthly stakeholder meetings.

Participant Characteristics

Given that the foreclosure crisis has hit Black/African-Americans and Latinos particularly hard,⁵³ it is a concern that the racial and ethnic makeup of those who participate in and complete the programs

⁵³ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#), Center for Responsible Lending, (June 18, 2010).

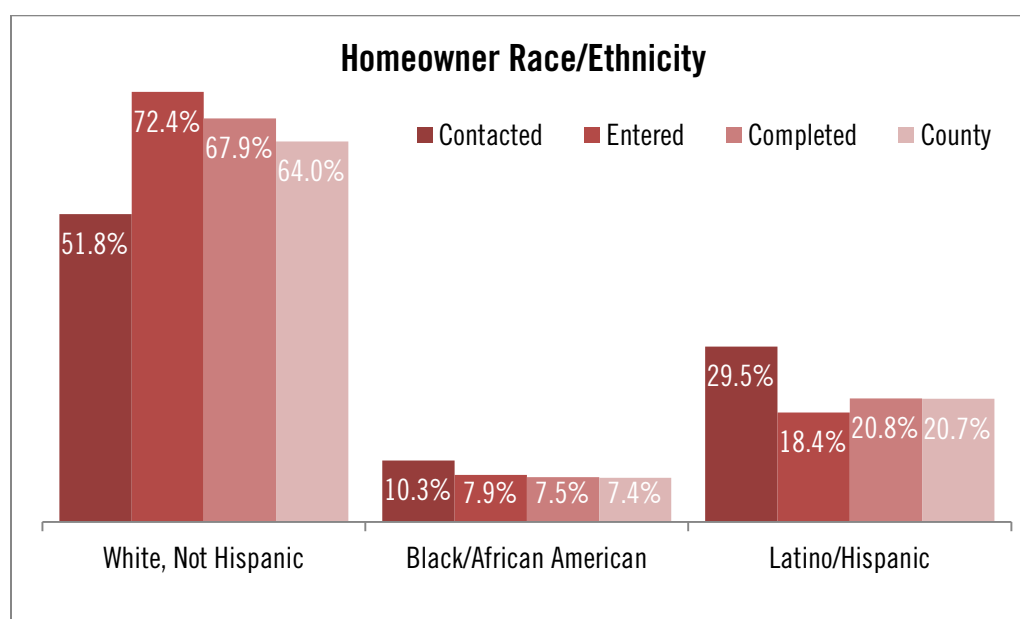
Hall, Matthew, Kyle Crowder, Amy Springer. “Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions,” *AMERICAN SOCIOLOGICAL REVIEW* (April 2015).

be similar to the racial and ethnic makeup of the county they serve.⁵⁴ Further, the program was interested in knowing whether the most vulnerable homeowners were being served.

RACE/ETHNICITY OF PARTICIPANTS⁵⁵

A higher percentage of Latinos and a lower percentage of non-Hispanic Whites contact the program than are represented in the county's population overall. However, a significantly lower percentage of Latinos enter the program than attended the informational session.⁵⁶

| Homeowner Race/Ethnicity | | | | |
|--------------------------|-----------|---------|-----------|--------|
| | Contacted | Entered | Completed | County |
| White, Not Hispanic | 51.8% | 72.4% | 67.9% | 64.0% |
| Black/African American | 10.3% | 7.9% | 7.5% | 7.4% |
| Latino/Hispanic | 29.5% | 18.4% | 20.8% | 20.7% |
| Asian | 5.3% | 2.6% | 3.8% | 7.0% |
| Multi-Racial | 1.2% | 0% | 0% | 2.0% |
| Other | 1.8% | 6.6% | 5.7% | 1.0% |



⁵⁴ Because there is no accurate data on individual homeowners facing foreclosure in Lake County, the racial and ethnic makeup of the county is used instead of the racial and ethnic makeup of those facing foreclosure.

⁵⁵ The race/ethnicity presented is for the primary homeowners only. There were no cases in which homeowners were of different races/ethnicities.

⁵⁶ $P = 0.0153$

WHAT DOES THIS MEAN?

The racial/ethnic makeup of the homeowners who contacted the program could be representative the makeup of those against a foreclosure has been filed. However, the drop in the percentage of Latinos who enter the program may be a result of where the services have been provided. The Latino population of Lake County is concentrated in the northwestern part of the county, while the services are provided in the southern part of the county. Since AHC provides informational sessions in Spanish and Spanish-speaking housing counselors, the issue does not appear to be one of language. It also does not appear to be a purely cultural issue with mediation, as the 16th Circuit program does not have a similar drop in the percentage of Latinos who enter the program.

⇒ **Recommendation:** The program should institute the proposed changes to the court rule that would make the entry process easier, and should, in particular, attempt to provide services closer to where the majority of the Latino population lives.

INCOME LEVEL OF PARTICIPANTS

About 80% of the homeowners had a household income below the county median of \$77,469. Those making less than \$20,000 were less likely to enter the program, and then to complete it after attending the informational session. This is the same pattern as seen in the other programs.

| | Household Income | | |
|---------------------|------------------|---------|-----------|
| | Contacted | Entered | Completed |
| <\$20,000 | 18.3% | 12.7% | 9.6% |
| \$20,000 - \$34,999 | 23.2% | 18.3% | 21.2% |
| \$35,000 - \$49,999 | 22.4% | 25.4% | 21.2% |
| \$50,000 - \$74,999 | 20.9% | 23.9% | 26.9% |
| \$75,000 - \$99,999 | 7.2% | 7.0% | 7.7% |
| \$100,000-\$149,999 | 5.9% | 8.5% | 7.7% |
| \$150,000+ | 2.1% | 4.2% | 5.8% |

WHAT DOES THIS MEAN?

The drop in participation and completion rates for homeowners with an income less than \$20,000 is most likely due to their viability for a loan modification. Low-income homeowners would generally be the least likely to qualify for a loan modification and, therefore, would more likely stop participating in the program prior to completion.

AGE OF PARTICIPANTS

Most primary homeowners were in their 40s and 50s.

| | Household Age | | |
|-----------|---------------|---------|-----------|
| | Contacted | Entered | Completed |
| <30 years | 0.7% | 1.4% | 0% |
| 30-39 | 12.9% | 15.3% | 11.5% |
| 40-49 | 27.5% | 26.4% | 26.9% |
| 50-59 | 36.5% | 36.1% | 44.2% |
| 60-69 | 16.1% | 12.5% | 9.6% |
| 70-79 | 5.0% | 6.9% | 7.7% |
| 80+ | 1.2% | 1.4% | 0% |

DISCUSSION AND RECOMMENDATIONS

The 19th Circuit program has the lowest participation rates of the Attorney General-funded programs. This is due to a combination of homeowners being told they have the opportunity to participate rather than telling them they must participate, the program's high hurdles to entry and the lack of judge referrals. However, once homeowners have entered the program, the program's two-part process is successfully helping homeowners to keep their homes and to provide them with a positive, respectful experience.

PARTICIPATION IN THE PROGRAM LAGS OTHERS

Participation is the program's biggest issue. A much lower percentage of eligible homeowners contacts the program, and then participates in it than in any other program. This evaluation identified three reasons for the low participation rate.

1. Participation hurdles are higher than in other programs

The court wanted to ensure that the homeowners understood the process before beginning the program so that the process would be more efficient. This led to the court requiring that homeowners attend an informational session prior to entering the program. Although the homeowners who attended the informational sessions really appreciated them and learned what the session wanted them to learn, only 11% of eligible homeowners attended. This points to the session being a barrier to participation. The other explanation – that homeowners were not aware of the program – does not fit with the evidence. First, other programs do not conduct as much outreach to raise awareness as the 19th Circuit program and yet, have higher participation rates. Second, the programs that send notices of mandatory appearance to homeowners have participation rates more than 60% with no other outreach.

RECOMMENDATION: The court has changed its rule to remove the requirement that homeowners attend the informational session. This rule change should be approved. However, the benefit of the informational sessions should not be lost. The program should continue with its plan to make a video of the informational session available to all homeowners.

2. The program was developed as a [multi-step entry](#) program

The single-step entry programs have much higher participation rates. The difference appears to be partially about the message homeowners receive. The single-step entry programs and the [hybrid](#) program all send a notice to the homeowners that says the program is “mandatory” and tells the homeowners they *must* take action, either appear for their session or call the program coordinator. None of them actually mandates homeowner participation. Further, the [one-step entry](#) programs give the homeowners a date and time to appear. The 19th Circuit program, on the other hand, tells homeowners they have the opportunity to participate and urges them to “act quickly.” Homeowners are not given a date to attend an informational session. Nor are they given a specific date by which they must do so in order to participate.

While the one-step entry programs have much higher participation, making the program mandatory is not recommended for a program as large as the 19th Circuit program. There are not enough resources to accommodate 60% or more of eligible homeowners.

RECOMMENDATION: Instead of changing how the program functions, the program might want to consider how to change the message that is sent to the homeowners. When the new program rules go into effect, the plan is to give homeowners a deadline for contacting the program coordinator and telling them they “must” call her. These changes should be made and the effect monitored.

3. Judges haven’t been in the habit of ordering cases into the program

There is ample evidence that more homeowners can be helped than contact the program after receiving their summons. In the 21st Circuit program, where 68% of homeowners responded to a mandatory summons, a projected 14% of all eligible homeowners keep their homes through the mediation program. This contrasts with 2% in the 19th Circuit program and shows that too many homeowners are self-selecting out of the process. The 20th Circuit program addresses this issue by ordering homeowners into the program at a later date. This has proven to be very successful, with more homeowners retaining their homes when ordered in than when they enter in response to the notice of mediation that accompanies their summons.

RECOMMENDATION: As of January 2015, the judges have begun to order in cases on the court’s own motion. The court should continue to encourage judges to order in appropriate cases.

PARTICIPANTS ARE BEING ADVERSELY AFFECTED BY STRICT DEADLINES

The court wanted to ensure the program process did not drag on and slow down the foreclosure process. This led to the adoption of relatively short timeframes for the program as compared to other programs. The homeowners have found these deadlines hard to meet. While more than half of all homeowners who enter the program complete it, many withdraw because they cannot complete their documentation before the deadline.

Lenders, too, have complained about the short deadline for reviewing the homeowners' loan modification packets. The program coordinator has had to allow extensions in order for cases to move forward in the program. However, most deadlines cannot be extended under the court's current rule.

All of these indicate that the deadlines currently in place are too short. Other programs have longer deadlines, but are still able to limit the time cases spend in them to around three months, so lengthening program timeframes should not be detrimental to the goal of providing timely services.

RECOMMENDATION: The court has proposed changes to its rule to lengthen deadlines for both homeowners and lenders. These changes should be approved.

TWO-PART PROCESS IS APPRECIATED BY HOMEOWNERS

The court wanted homeowners to have help navigating the process and completing their documents. Housing counseling was intended to provide this. According to both homeowners and the program coordinator, this aspect of the program is working very well. All homeowners who attend an informational session, and then housing counseling, receive guidance about their options and an explanation of the mediation process. This points to even ineligible homeowners getting to understand their situation better, and their questionnaire responses back this up. Homeowners almost all indicated they were very satisfied with this process, and that they learned a lot about their options and how to work with their lender. Their appreciation of their meeting with the housing counselor was very evident in the numerous glowing comments about the meeting and the counselor on the post-session questionnaire.

Once referred on to mediation, homeowners have the opportunity to have the face-to-face communication with their lenders that the court envisioned. Homeowners have appreciated this opportunity, as well as the respect with which they were treated. Those who commented on the lack of flexibility by their lenders or their lenders' non-appearance also commented on the respect with which they were treated or the helpfulness of the mediation and their mediator, showing that the mediation mitigated the effects of the lenders' decision or behavior. Further, the program enjoys a high agreement rate in mediation.

RECOMMENDATION: As the court considers how to help homeowners after the grant ends, it should try to maintain the two-part structure that is currently in place.

THOSE HOMEOWNERS WHO COMPLETE THE PROGRAM ARE WELL SERVED

Once homeowners complete their documentation, the program works very well. Of those who stay in the program, 58% reach an agreement to retain their homes and 10% agree to a relinquishment option. This is the second highest rate of retention and the second highest rate of agreement of all the Attorney General-funded programs. However, if the 17th Circuit program is disregarded, which removes unviable homeowners, the 19th Circuit has the highest agreement rate of all programs.

HOMEOWNERS HAD A POSITIVE EXPERIENCE

As important as how many homeowners avoid foreclosure, if not more so, is whether homeowners have a positive experience in the program. From the informational session onward, homeowners wrote of their appreciation of their experiences. In their comments, they wrote of the care, respect and courtesy with which they were treated at each stage of the process. They wrote of the wealth of information they received and the ability to communicate with their lenders. In their questionnaire responses, they consistently gave positive ratings to the process, their housing counselor and their mediator.

MEDIATOR SKILLS

Most of the participants gave high marks to the mediators. Homeowners almost all said that mediators were helpful, but a larger percentage than in other programs felt coerced by their mediator. Nonetheless, they felt they were treated fairly and with respect. Lender representatives and lender attorneys, however, were less satisfied with the mediators. In eight cases, the attorneys said they would definitely not use their mediator again, and in another ten, they only said possibly. These attorneys mentioned mediator bias or lack of competence.

RECOMMENDATION: The program coordinator should continue to debrief with mediators after mediation sessions and discuss participant responses with them. If time permits, she should observe each mediator. If necessary, she should work with the Presiding Judge to consider further action for particular mediators.

LATINOS ARE LESS LIKELY TO PARTICIPATE IN THE PROGRAM

Fewer non-Hispanic Whites and more Latinos contact the program than are represented in the county as a whole. This may reflect the foreclosure landscape in general. However, Latinos are significantly less likely to enter the program, and then to complete it, than homeowners of other races or ethnicities. This is not the case in the 16th Circuit program, which also serves a large Latino population. Services are provided in Spanish, so language is not the barrier to Latinos participating. Instead, it may have to do with where the services are provided. Housing counseling sessions are held in Libertyville, to the south of the county, while the Latino population lives in the northern part of the county. The program is addressing this by providing more drop off points around the county and by partnering with housing counseling agencies that can conduct sessions up north.

RECOMMENDATION: Continue to work to provide services closer to the county's Latino population. Also, monitor the participation rates of Latinos to see if this alleviates the problem.

Conclusion

The 19th Judicial Circuit Residential Mortgage Foreclosure Mediation Program has the lowest participation rate of all the Attorney General-funded programs. Once homeowners enter, the program's retention rate is similar to other programs; however, homeowners who complete the

program are more likely to keep their homes than in any other program but the 17th Circuit program. Housing counseling is helping all homeowners to gain understanding about their options and how to work with their lender. The homeowners also report that they are being treated fairly and with respect by both housing counselors and mediators. The program needs to focus on making entry into the program easier and lengthening deadlines so that it is easier for homeowners to comply with them, leading fewer to leave the program prior to completing it.

20TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM St. Clair County

Overview

| | |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch date | January 14, 2014 |
| Program Size | 110 cases entered the program in 2014 |
| Type | Multi-step entry |
| Eligibility | Residential foreclosures; must be primary residence and mortgagee must live in the home |
| Entry Process | File mediation request and financial questionnaire with court clerk |
| Intake | By program staff after homeowners submit financial questionnaire |
| Pre-mediation | Up to 3 pre-mediation sessions with PC* to complete packet and reach agreement on foreclosure avoidance option |
| Mediation | Unlimited mediation sessions, by rule |
| Remain in Program During TPP?* | Yes |
| Timing of Foreclosure Stay | Date mediation request filed until case exits program; cases stay in program until end of TPP |
| Homeowner Cost | None |
| Lender Additional Filing Fee | \$100 |
| Mediator Payment | \$250/case |
| Program Staff | 1 full-time program coordinator and 1 full-time assistant |
| Program Rule | Not available online |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- The program coordinator conducts all pre-mediation conferences
- The representative for the [lender](#) with full settlement authority participates in all pre-mediation conferences, along with the lender attorney
- Housing counselors accompany their client homeowners to the pre-mediation sessions
- Mediation is rare, and used only in special circumstances
- Cases filed before the launch date are often referred into the program

* HC = housing counseling HO = homeowner PC = program coordinator TPP = trial period plan

STATISTICS AT A GLANCE

105 homeowners participated in 2014, making it the smallest program.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-----|
| Foreclosures | 730 |
| Contacted/Referred | 156 |
| Entered Program | 105 |
| Closed | 69 |
| Pending | 36 |

The program helps 16% of eligible homeowners.

| Program Impact | |
|-----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 15.8% |
| Foreclosures Avoided* | 6.4% |
| Homes Retained* | 0.9% |

*Projected numbers based on closed cases.

The program has the highest completion rate and the highest rate of retention for participating homeowners.

| Outcomes of Closed and Completed Cases | | | |
|----------------------------------------|----|-------------------|----------------------|
| | # | % of Closed Cases | % of Completed Cases |
| Agreement: Retention/ TPP | 28 | 40.6% | 50.0% |
| Agreement: Relinquishment | 4 | 5.8% | 7.1% |
| No Agreement | 24 | 34.8% | 42.9% |
| Program Not Completed | 13 | 18.8% | N/A |

On average, it takes just over 3 months to complete the program.

| Average Number of Days in Program | |
|------------------------------------------|-----|
| Filing to Close – All Cases | 108 |
| Program Entry to Close | 96 |
| Program Entry to Close – Completed Cases | 91 |
| Program Entry to Close – Not Completed | 77 |

Most homeowners who completed pre-mediation felt they had a better understanding of their options and how to work with their lenders.

| Pre-Mediation Homeowner Experience (n = 30) | |
|-------------------------------------------------------|-----|
| Understand Options Better Than Before | 93% |
| Understand How to Work with Lender Better Than Before | 87% |
| Satisfied Overall | 93% |

The few who have participated in mediation have had a positive experience.

| Participant Experience | | |
|------------------------|---------------|------------------|
| | Party (n = 3) | Attorney (n = 2) |
| Satisfied Overall | 100% | 100% |
| Satisfied with Outcome | 67% | 100% |
| Process was Fair | 100% | 100% |

IMPORTANT FINDINGS

Participation is lower than most other programs

The program has the second lowest rate of participation of all the programs, with only 16% of eligible [homeowners](#) participating.

The program has the highest retention rate for homeowners who enter the program

Once they entered the program, 41% of homeowners retained their homes. This is a higher [retention](#) rate among participating homeowners than any other program.

The judge referred more than 50% of the homeowners who contacted the program

The referrals were both for homeowners whose cases were filed prior to the program's launch date and homeowners who did not respond to the notice with their [summons](#) or did not complete the entry requirements. This both expanded the program to other homeowners and gave eligible homeowners a second opportunity to participate.

Judge-referred cases were more likely to result in home retention

Judge-referred cases were more than twice as likely to result in homeowners keeping their homes. This included a significant number of cases filed a year or more before the homeowner entered the program.

Homeowners who get assistance from legal services are more likely to avoid foreclosure

Only 25% of homeowners received assistance from Land of Lincoln attorneys, but those who did were twice as likely to retain their homes as those homeowners who received neither housing counseling nor legal services.

Homeowners had a positive experience with the program

Homeowners all felt they were treated fairly and with respect, and most were satisfied with their experience in the program.

People of all races/ethnicities were equally served by the program

There was no significant decline in minority participation as homeowners progressed through the program.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO ADDRESS?

The court created the mediation program in response to what the judges saw as the national lenders' poor treatment of homeowners who were trying to save their homes. According to the presiding judge, homeowners were working with a "dehumanizing bureaucracy" in which they never spoke with the same person twice and had to resubmit documents that the lenders lost.

The court hoped to improve communication by having homeowners and lender representatives meet, and to have homeowners be treated with decency and respect.

PROGRAM ADMINISTRATION

This program is administered by Dispute Resolution Institute (DRI). It is managed by a full-time program coordinator who also conducts the pre-mediation sessions. She is assisted by a full-time administrator who conducts intake and schedules initial pre-mediation sessions. Both are employees of DRI. Program partners are the Land of Lincoln Assistance Foundation and the Urban League of Metropolitan St. Louis, a HUD-certified housing counseling agency. Both agencies help a minority of participating homeowners from their entry into the program until they leave. A Missouri-based HUD-certified housing counseling agency, Beyond Housing, also assists homeowners in the program, if they had taken the homeowner on as a client before the homeowner began the program. A panel of 11 private mediators who were trained in foreclosure mediation by RSI for five days conducts the mediations.

ELIGIBLE CASES

Homeowners whose cases were filed after January 14, 2014, may choose to enter the program if the home is their primary residence and they live in the home. However, they are ineligible if they have a pending bankruptcy case. Judges can order older cases into the program, as well. They do so frequently.

NOTIFICATION AND OUTREACH

Homeowners are brought into the program in two ways.

- When the foreclosure is filed, the homeowners receive notification of the program with the summons. The summons packet also includes the homeowners' financial questionnaire and request for mediation. The notification tells the homeowners to file the mediation request with the court clerk.
- While the [foreclosure](#) process is ongoing, the homeowners may move that their case be sent to the program via a court order. To recruit homeowners this way, the program coordinator attends the court call to talk to them about the program. If the homeowners decide to enter the program, the program coordinator has them make an oral motion to enter the program, which the judge generally grants with a court order.

ENTRY PROCESS

For newly filed cases, homeowners must submit their request for mediation and the homeowners' financial questionnaire to the St. Clair County court clerk within 30 days of being served their

summons. When they file these forms, the foreclosure process is stayed. For cases referred to the program by a court order, the homeowners generally must submit the homeowners' financial questionnaire within 14 days of the order. If homeowners who miss their initial deadline for entering the program file a motion to participate in mediation during a court hearing and the court grants it, the foreclosure process is not stayed while their case is in the mediation program.

Once the homeowners file the required paperwork with the court clerk, the program assistant calls the homeowners to complete intake. During this call, the assistant tells the homeowners about the program, gets the homeowners' contact and demographic information, and schedules the first pre-mediation session.

PROGRAM PROCESS

Pre-mediation Phase

For most cases, the entire program process consists of a series of pre-mediation sessions conducted by the program coordinator. Unlike other programs, a representative for the lender participates in these sessions (by phone) along with the lender attorney and the homeowners, who both attend in person. If the homeowners are working with a housing counselor or have an attorney, they attend as well. The sessions are meant to facilitate the [document exchange](#) process and, most often, end either with a [temporary loan modification](#) or a decision to return to court to continue the foreclosure process. The court's rule calls for two pre-mediation sessions with authorization for a third one, if needed. However, in practice, many cases use all three sessions and a small number require a fourth session, as well. The sessions all take place in the court's law library.

The first pre-mediation session must take place within 30 days from the date the homeowners file the request for mediation (or the financial questionnaire, if entering via court order). It is always conducted as an informational session. The program coordinator starts by finding out where the case is in the court process. She then explains that there will be no finger pointing, but that instead they will talk about how to resolve the situation in the best way for both parties rather than going through foreclosure. The homeowners say whether they want to retain or relinquish the home, and then everyone talks about the best options for getting there. The homeowners come with their financial information and the lender attorney brings the [loan modification packet](#) that the homeowners need to complete. The first session ends with homeowners having a loan packet to complete and a date scheduled for the next session.

By rule, the deadline for the next session is 45 days from the first session, with 15 days for the homeowners to submit the loan modification packet (which they send to the lender attorney), and 30 days for the lender to review it. However, in practice, the parties sometimes find it difficult to meet these deadlines. When both parties demonstrate that they are working in good faith to provide documentation and review it, the foreclosure judge is allowing the deadline to be extended to 60 days, giving homeowners an extra 15 days to provide documents. Most often, this second session serves as a forum for document exchange. After reviewing the loan modification packet, the lender may require further documentation. Usually, the lender attorney knows this ahead of time. If the

homeowners have already been told what documents are needed, they bring them to the session. The homeowners are then told that their case is in review.

The third session, though treated as an uncommon option in the court rule, is often needed to complete the review and determine whether the lender will extend an offer of a loan modification to the homeowner. If the parties agree to a temporary loan modification at the second or third session, then another session is set for 90 days out, at the end of the trial period plan. If they do not, the homeowners are asked if they want to pursue options to [gracefully exit](#) the home and pursue mediation. If so, a mediation is scheduled. During the program's first year, only three cases were referred to mediation.

The final session is used to go over the conversion of the temporary loan modification to a permanent modification, if the lender and homeowners agree to that conversion. Otherwise, it is used to discuss other options, and to decide whether the homeowners want to pursue those. If this is the case, mediation is scheduled. No final session is needed if the lender and homeowners agree to a permanent modification before the session date.

Note: Housing counseling is optional in this program. A housing counselor from HUD-certified Urban League of Metropolitan St. Louis attends court calls and pre-mediation session dates. If the housing counselor has talked with the homeowners prior to the pre-mediation sessions, he will attend the sessions and help the homeowners by asking clarifying questions and providing information during the session. In addition, a housing counselor from Missouri-based Beyond Housing has been assisting homeowners if she already was working with the homeowner prior to attending the pre-mediation sessions. A housing counselor from one of these agencies attends about one third of the time, though the program coordinator reported that housing counselor participation has become more frequent.

Mediation Phase

Because negotiations take place in the pre-mediation sessions, mediation is rare in this program. By rule, two mediation sessions are allowed, and there is no deadline to complete them. The primary purpose of mediation as conceived by the rule is to discuss graceful exit options. However, of the two mediations that took place during the evaluation period, the reasons were very different: to discuss a dispute regarding the homeowner's income and to help move the lender to discuss a loan modification with the homeowners, whose debt had been discharged through bankruptcy.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not complete the required documentation within the required timeframe
- The homeowners do not appear for a pre-mediation or mediation session
- The homeowners voluntarily withdraw

- The homeowners and lender do not agree to any option to [avoid foreclosure](#)

Cases are returned to court for dismissal if the parties agree to a retention option other than a temporary loan modification, or if they agree to a [relinquishment](#) option. If the homeowners and lender agree to a temporary loan modification, the program keeps the case until the end of the trial period. A session is scheduled for the end of the trial period to facilitate any issues with the conversion. If the parties agree on the conversion and sign the documents beforehand, the session is cancelled.

Judge and Program Perspectives

The foreclosure judge, the program coordinator and the program administrator were each interviewed to obtain their perspectives on the program.

WHAT IS WORKING WELL?

The presiding judge has noticed differences in the cases since the program began. He says lenders are no longer dealing with homeowners in bad faith. It is easier to get homeowners and lenders to negotiate than it was before the start of the program. Further, the homeowners are not showing up in court saying they cannot get answers from their lender. This helps the court because the judges do not have time to sit down with the parties to go over the documents lenders need from homeowners and whether or not homeowners already submitted them.

The program administrator noted, in return, that the program benefits from judges who are both supportive of the program and of mediation. This is seen in the judges' willingness to refer cases to the program, and to otherwise work with staff who come to their calls. Additionally, the housing counselors have been tremendously helpful. They help homeowners complete their packets on time and correctly. There is a big difference between the packets of homeowners who do not get help from housing counselors and those who do. In addition, when housing counselors attend the pre-mediation session, they ask questions that help to elucidate issues. The program coordinator said that the housing counselors have been invaluable to her by bringing additional expertise to the table as an "encyclopedia of knowledge." The Land of Lincoln attorneys provide similar expertise, but for fewer cases.

CHALLENGES

The presiding judge noted two interconnected challenges: getting homeowners into the program when the case is filed and determining whether homeowners are sincere in their request to participate in the program when they request it at the hearing for summary judgment. Homeowners often do not respond to their summons or their notice of mediation that accompanies it. This means their first interaction with the court is at the hearing for default judgment. The judge needs to determine whether or not the homeowners are requesting referral to the mediation program as a way to delay the foreclosure. He generally does this by determining whether the homeowners had been

trying to work with their lender. He also limits the possible delay caused by referral to the program by not staying the foreclosure process while they put together their packet.

An ongoing challenge has been coordinating paperwork with the Circuit Clerk's office. When homeowners file their request for mediation and financial questionnaire with the Clerk, a copy is supposed to be placed in the mediation program file to be picked up by the program coordinator. This process has not always gone smoothly, which at times has delayed cases getting into the program or led to them being returned to court because the program did not have evidence of documents being filed. Program staff continues to work with the court to resolve this issue.

The program originally had issues with homeowners not appearing for their first pre-mediation sessions. The staff changed their process in order to address this, and now make a courtesy call to homeowners a few days before their sessions to remind them to attend. In addition, the program rule requires that lender attorneys arrive at the first pre-mediation sessions with an extensive list of documents. Lender attorneys initially were filing written objections to the court orders for them to provide these documents. The judges dealt with this by making oral orders that reduced the requirements for what they needed to bring.

Program Characteristics

PROGRAM SIZE

Despite the 20th Circuit program's county (St. Clair) having significantly more foreclosure filings than the 6th Circuit and 21st Circuit programs, the 20th Circuit program is the smallest of all the programs, serving just over 100 homeowners.

| Annual Numbers | |
|--------------------|-----|
| Foreclosures | 730 |
| Contacted/Referred | 156 |
| Entered Program | 105 |

CHARACTERISTICS OF CASES

Homeowners enter the program either by filing a mediation request after receiving their summonses or by filing a motion at their hearings for summary judgment. In practice, more homeowners enter via motion at their court hearings than at the time the cases are filed. The program also allows homeowners whose cases were filed before the program's launch date to file a motion for referral to mediation. More than a third of the cases were filed before the program was established.

The court also is in the practice of ordering in cases after they either initially did not complete the steps to enter the program, left the program because they had exhausted the three pre-mediation

sessions allowed by rule before completing negotiations, or exited the program early for some other reason. This has happened in twelve cases.

Referral Source

Half of the cases were ordered in by the judge on the homeowner's motion

More homeowners contacted the program after asking the judge to refer them than entered through their notice of summons.

| Referral Source (n=156)* | | |
|--------------------------|----|-------------------------------|
| | # | % of Cases Contacted/Referred |
| Ordered by Judge | 78 | 50.0% |
| Notice with Summons | 75 | 48.1% |
| Other | 2 | 1.3% |

*The referral source was not available for one case

WHAT DOES THIS MEAN?

This pattern of referrals is different from every other program, in which the vast majority of homeowners contacted the program after receiving their notice of mediation with their summons. Here, the court is offering the homeowners who do not respond to the notice of mediation a second chance to participate. The program coordinator facilitates the homeowners' decision by attending the court call and discussing the program and their options with them. The program coordinator's attendance at the call is a likely reason more homeowners are referred by court order than by requesting mediation after receiving their notice of mediation, making it an effective method of recruitment.

When Cases Were Filed

One in three cases were filed before the program began

The cases were filed up to seven years before the launch date, with 15 filed in 2012 and 31 in 2013.

| Cases Filed Pre- and Post-launch (n=156)* | | |
|-------------------------------------------|-----|-------------------------------|
| | # | % of Contacted/Referred Cases |
| Filed Pre-launch | 52 | 33.3% |
| Filed Post-launch | 101 | 64.7% |

*The case filed date was not available for three cases

WHAT DOES THIS MEAN?

The court not only offered a second chance to homeowners to participate in the program, but opened up the program to homeowners otherwise not eligible to participate because their cases were filed before the program's launch date.

Assistance by Services

Homeowners received housing counseling or legal services in 55% of cases

The housing counselor attended the pre-mediation sessions in 29% of the cases. Generally, housing counselors attend sessions with their clients or with homeowners who agree just before their session to have them attend. In addition to attending the session, the housing counselor will work with the homeowners to complete their packet and provide any additional documents the lender requests. Land of Lincoln represented about 26% of the homeowners.

| Housing Counseling and Legal Services (n=110) | | |
|-----------------------------------------------|----|--------------------------|
| | # | % of Participating Cases |
| Housing Counseling Attendance | 32 | 29.1% |
| Legal Services Representation | 27 | 25.5% |
| No Services | 51 | 46.4% |

WHAT DOES THIS MEAN?

More than 50 homeowners did not receive extra services that would help them to complete their packet correctly and navigate the document exchange process.

Program Performance

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lenders
- How many of those outcomes are positive – either retentions or relinquishments, with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Participation | 105 homeowners participated in 2014 |
| Impact | The program serves 16% of homeowners facing foreclosure |
| Outcomes | 41% of homeowners who entered the program kept their homes 57% of homeowners who completed the program avoided foreclosure 88% of homeowners who avoided foreclosure kept their homes |
| Participant Experience | Homeowners felt respected and treated fairly in their pre-mediation sessions |
| Time in Program | Cases moved through the program in 3 months |

PROGRAM ACTIVITY

Case Status

The program served more than 100 homeowners in its first year, with 28 keeping their homes

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-----|
| Foreclosures | 730 |
| Contacted/Referred | 156 |
| Entered Program | 105 |
| Closed | 74 |
| Homes Retained | 29 |
| Homes Voluntarily Relinquished | 4 |
| No Agreement | 29 |
| Program Not Completed | 13 |
| Pending | 36 |

Sessions held

Pre-mediation

Pre-mediation sessions are held by the program coordinator and attended by the homeowners, homeowners' attorney if the homeowners have one, lender representative, lender attorney; and housing counselor, if the homeowners have been assisted by the housing counselor. It starts with an initial session to get everyone on the same page and give the homeowners the packet to complete. It then evolves through document exchange to negotiation. During the evaluation period, 232 pre-mediation sessions were held for 102 cases. The sessions took on average 30 minutes to complete.

Mediation

Mediation is held only in rare cases in which there are issues in dispute that go beyond the disposition of the home. Four sessions were held for three cases during the evaluation period. On average, the mediators spent 1.31 hours in session and 0.69 hours preparing for each one.

PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by the program. This includes providing information to homeowners about the foreclosure process and possible options for their homes, helping them to submit their loan modification packets, and facilitating negotiations with their lenders.

This is not a straightforward calculation for any program, and it is less so for the 20th Circuit program. First, unlike other programs, a third of homeowners helped by the program were ineligible because their cases were filed before the program's launch date. Thus, the actual number of *eligible* homeowners served is much lower than presented below. Removing pre-launch cases would

improperly reduce the overall impact of the program, so they have been included in the calculation. Second, the number of foreclosures filed after the program began includes some in which the homeowners may not have been eligible, because they did not live in the home or they had an active bankruptcy case. Therefore, the pool of eligible foreclosures is smaller than the 730 residential foreclosures filed. Third, a number of cases that were filed during the evaluation period are still open and therefore, do not have an outcome. To deal with this, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

All of this means that the percentages discussed below are not precise. They do, however, help to place the program's impact relative to the other programs in the study.

The program has the second highest rate of home retention of all the programs

The 20th Circuit program has benefitted 16% of homeowners facing foreclosure. A projected 7% avoid foreclosure, almost all of them keeping their homes. Although the 16% of homeowners helped is the second lowest of the programs, its high retention rate means that it has the second highest rate of avoiding foreclosure.

| Impact – All Residential Foreclosures | | |
|---------------------------------------|--------------------------|---------------|
| | 20 th Circuit | Comparison |
| Homeowners Helped | 16% | 10.9% - 67.6% |
| Foreclosure Avoidance* | 7% | 2.5% - 26.5% |
| Retention* | 6% | 2.1% - 14.2% |
| Voluntary Relinquishment* | 1% | 0% - 12.3% |

* These are projected percentages based on data from cases that have already closed.

The full 16% of homeowners who were helped receive assistance when they appear for their first pre-mediation sessions. At this session, the program coordinator explains the foreclosure mediation program process and discusses how to complete the loan modification packet. The session ends with the lender attorney handing them the packet to complete. Thus, 16% of homeowners get information that helps them navigate the foreclosure process, whether or not they move forward in the program. The program then assists homeowners who continue in the process to try to avoid foreclosure by helping them submit their loan modification packets to their lenders, and then by helping them to negotiate with their lenders.

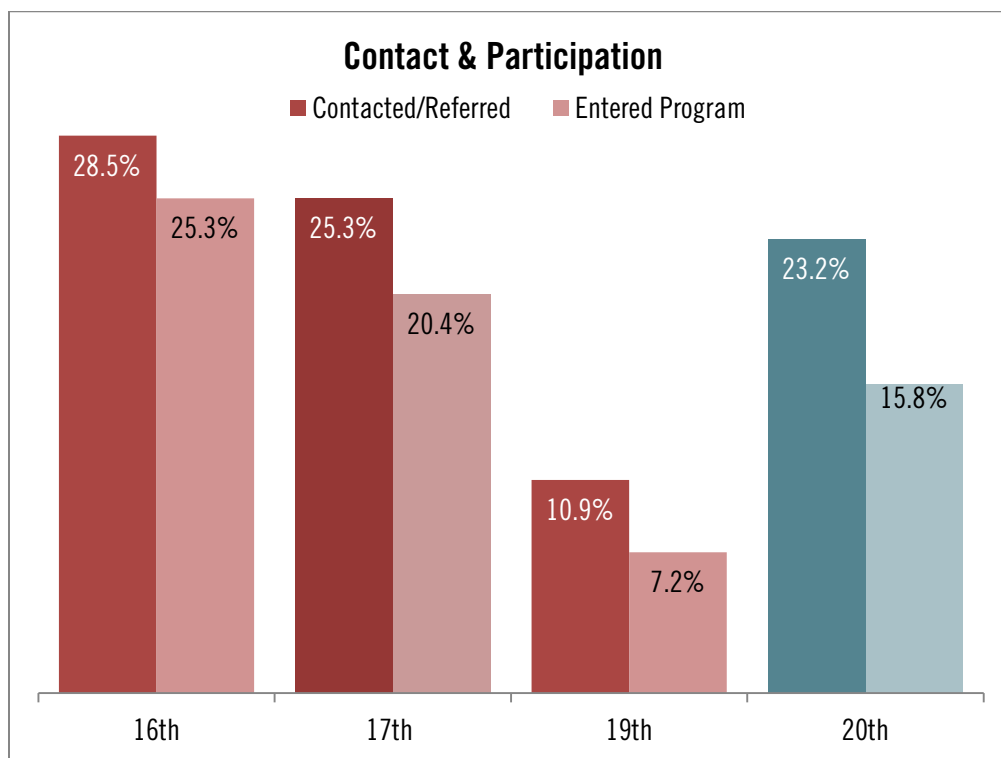
PARTICIPATION

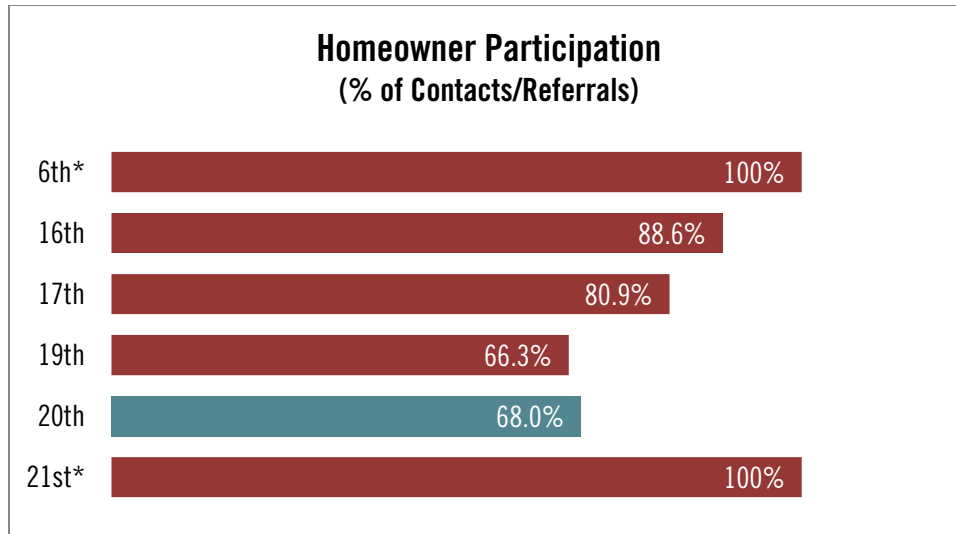
Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In the 20th Circuit program, homeowners are considered to participate if they first complete the request to mediate and financial questionnaire, and then attend their first pre-mediation session. This means homeowners can start the process to enter the program and not complete it. Thus, the program has two tasks in bringing homeowners into the program. The first is encouraging homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

There is a large gap between the percentage of homeowners who contacted the program or were ordered in by the judge and the percentage that entered it

Only 68% of homeowners who requested mediation completed the steps to enter the program.





* One-step entry programs.

WHAT DOES THIS MEAN?

Almost 10% of homeowners who requested mediations were not eligible because the home was not their primary residence or they were in bankruptcy. Another 23% did not complete the entry process. The program requires that homeowners submit a detailed financial questionnaire in order to enter the program. This may have been a high hurdle for some homeowners, who may not have been able to complete their questionnaires or believed it was not worth the effort.

OUTCOMES

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot and should not expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

The 20th Circuit program has the highest retention rate, the highest completion rate and the highest rate of no agreements for participating homeowners. Almost 40% of participating homeowners

received an agreement to keep their homes and the same percentage did not reach agreement with their lenders. Only 18% did not complete the program.

Closed Cases

The program has the highest retention rate for participating homeowners

Ten percent more participating homeowners kept their homes than in the next highest program. The program's non-completion rate is 20% lower than the next lowest program.

| Outcomes of Closed Cases (n=74) | | |
|---------------------------------|----|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention/ TPP | 29 | 39.2% |
| Agreement: Relinquishment | 4 | 5.4% |
| No Agreement | 29 | 39.2% |
| Program Not Completed | 13 | 17.6% |

Completed Cases

Almost half of the homeowners who completed the program reached agreement to keep their homes.

| Outcomes of Completed Cases (n=62) | | |
|------------------------------------|----|------------------|
| | # | % of Completions |
| Agreement: Retention/ TPP | 29 | 46.8% |
| Agreement: Relinquishment | 4 | 6.5% |
| No Agreement | 29 | 46.8% |

WHAT DOES THIS MEAN?

The high retention rate for participating homeowners seems to be connected to the high completion rate, because the agreement rate for completed cases is actually on the low end for all the programs. The combination of high retention, high numbers of no agreements and high rate of completion is most likely due to the fact that the homeowners meet with a representative for the lender and lender attorney from the first session onward, giving the homeowners a chance to discuss the possible options even before they complete their packet. This may be an incentive for homeowners to complete their packets. Another reason for the high completion and retention rate may be that the judge orders in more than half of homeowners. These homeowners have to have demonstrated that they have tried to work with their lender previously, and therefore are more likely to be motivated.

Also, in a few cases, if the homeowner decided not to proceed after discussing what is possible for them, the program marked the case outcome as "no agreement." In other programs, such cases would be marked as a voluntary withdrawal if the homeowner had not

yet submitted their packet. This would have the effect of increasing the percentage of no agreements and decreasing the percentage of non-completions.

Types of Retentions

Most homeowners obtain a permanent loan modification after completing a trial period plan

76% of retentions were loan modifications

| Retention Outcomes (n=29) | | |
|----------------------------------|----|-----------------|
| | # | % of Retentions |
| Temporary Loan Modification/TPP* | 9 | 31.0% |
| Permanent Loan Modification | 13 | 44.8% |
| Forbearance | 2 | 6.9% |
| Reinstatement | 1 | 3.4% |
| Other | 4 | 13.8% |

*These are modifications that have not completed their trial period or for which the program does not have information on whether they converted to permanent modifications.

WHAT DOES THIS MEAN?

The program keeps cases open until the end of the trial period plan, then brings the parties together to facilitate the conversion to a permanent loan modification. This means that the program has a higher rate of permanent loan modifications recorded than other programs, which either close the case at the beginning of the trial payment period or only keep the case open if all parties agree.

Conversion of Temporary Loan Modifications

Of the five cases for which there are data on conversions, four converted successfully to permanent loan modifications.

Types of Voluntary Relinquishments

Four cases ended in voluntary relinquishment.

| Relinquishment Outcomes (n=4) | | |
|----------------------------------|---|-----------------|
| | # | % of Retentions |
| Consent Judgment | 2 | 64.1% |
| Short Sale | 1 | 25.6% |
| Other | 1 | 5.1% |

Program Completion

Most homeowners who did not complete the program did not appear for a scheduled pre-mediation session.

| Reasons Homeowners Leave Program (n=13) | | |
|------------------------------------------|---|--------------------|
| | # | % of Non-completes |
| Homeowner Did Not Appear for Session | 8 | 61.5% |
| Homeowner Did Not Complete Documentation | 3 | 23.1% |
| Homeowner Withdrew | 1 | 7.7% |
| Other | 1 | 7.7% |

WHAT DOES THIS MEAN?

Unlike in the other programs, homeowners do not appear to have difficulty with completing their loan modification packet on time. It is unclear why this is. It may be due to their completing a financial questionnaire prior to entering the program, although the 17th Circuit program has the same entry requirement, and homeowners there are less likely to complete the packets. Another possible cause is that the homeowners are meeting with their lender from the beginning and, therefore, have more incentive to complete the packet.

Outcomes by Referral Source

Homeowners who motioned the judge to order their case to mediation were more likely to enter the program and to retain their home

Homeowners were 18% more likely to complete the steps to enter the program if the judge ordered them in. They were 13% more likely to retain their homes once they participated. Neither difference is statistically significant,⁵⁷ but this may be due to the small number of cases involved.

| % of Contracts/Referrals Entering Program | | |
|-------------------------------------------|----|----------------|
| | # | % of Referrals |
| Ordered by Judge | 60 | 76.9% |
| Notice with Summons | 44 | 58.7% |

| Outcomes of Closed Cases by Referral Type | | | | | | | | |
|-------------------------------------------|---------------|-------|----------------|------|--------------|-------|------------------|-------|
| | Retention/TPP | | Relinquishment | | No Agreement | | Did Not Complete | |
| Ordered by Judge | 19 | 46.3% | 3 | 7.3% | 18 | 43.9% | 1 | 7.3% |
| Notice with Summons | 9 | 33.3% | 1 | 3.7% | 8 | 37.0% | 8 | 29.6% |

⁵⁷ P – 0.351, P = 0.489

WHAT DOES THIS MEAN?

The better outcomes might be an artifact of the small number of cases involved, which could have skewed the results. However, there are differences between the two groups that may lead judge-referred homeowners to be more likely to complete the steps to enter the program and to obtain a loan modification. Homeowners who respond to the notice that comes with their summons are most often on their own to complete the financial questionnaires needed to enter the program. Those who enter after motioning the judge are oriented to the benefits of the program by the program coordinator and may meet with a housing counselor before they enter the program. Further, the judge indicated that he only orders in cases in which the homeowners have demonstrated that they have tried to work with their lender previously. Therefore, they are more likely to be motivated to enter the program and to complete it. The higher retention rate for cases ordered in by the judge is due to the higher completion rate for those cases.

Outcomes by When Case Filed**Homeowners with older cases were able to retain their homes**

Cases that were filed before the program was launched are more likely to complete the program and more likely to result in the home being retained, although the difference is not significant.⁵⁸

| Outcomes by When Case Was Filed | | | | | | | | |
|---------------------------------|---------------|-------|---------------------|------|--------------|-------|---------------|-------|
| | Retention/TPP | | Vol. Relinquishment | | No Agreement | | Not Completed | |
| Pre-launch | 16 | 44.4% | 2 | 5.6% | 17 | 47.2% | 1 | 2.8% |
| Post-launch | 12 | 36.4% | 2 | 6.1% | 11 | 33.3% | 8 | 24.2% |

WHAT DOES THIS MEAN?

All pre-launch cases are ordered in by the judge and statistically the differences in completion and retention are related more to whether the case was ordered in than when it was filed. Nonetheless, the fact that 17 of 40 cases filed pre-launch, and 12 of 18 filed more than a year before entering the program, resulted in the home being retained demonstrates that the mediation program has a positive impact even on older cases. This is significant because some courts have been reluctant to include pre-launch cases, believing that the homeowners are not likely to be able to obtain a loan modification.

Outcomes of Cases Receiving Services**Homeowners who received services had better outcomes**

Homeowners who received assistance from a housing counselor or a legal services attorney were more likely to avoid foreclosure than those who did not.

⁵⁸ Home retention: $P = 0.663$

| Outcomes by Service Received | | | | | | | | |
|------------------------------|-----------|-------|----------------|-------|--------------|-------|-----------------------|-------|
| | Retention | | Relinquishment | | No Agreement | | Program Not Completed | |
| Housing Counseling | 8 | 38.1% | 3 | 14.3% | 6 | 28.6% | 4 | 19.0% |
| Land of Lincoln | 12 | 57.1% | 1 | 4.8% | 7 | 33.3% | 1 | 4.8% |
| Neither | 8 | 29.6% | 0 | 0% | 11 | 40.7% | 8 | 29.6% |

WHAT DOES THIS MEAN?

The difference in outcomes between those who received assistance and those who did not is not statistically significant. However, this is most likely due to the small sample size. When the outcomes from cases with housing counseling assistance and legal services assistance are combined, the difference does become statistically significant.⁵⁹ The difference in outcomes between those who receive legal services and those who did not receive assistance was just outside the range of significance.⁶⁰ Bringing those together, it can be surmised that at least those homeowners who received assistance from Land of Lincoln were more likely to avoid foreclosure. However, this evaluation is not meant to determine the reason for this, such as whether it is due to Land of Lincoln selecting cases that were more likely to end with an agreement or if it was due simply to the additional help that the attorneys provided.

Outcomes by Phase**Pre-Mediation**

Homeowners are most likely to get an agreement at the end of pre-mediation. This agreement is most often a permanent loan modification.

| Pre-Mediation Outcomes (n = 60) | | |
|---------------------------------|----|-------|
| Referred to Mediation | 3 | 4.1% |
| In Trial Period Plan | 9* | 12.2% |
| Agreement: Retention | 19 | 25.7% |
| Agreement: Relinquishment | 4 | 5.4% |
| No Agreement | 21 | 36.5% |
| Closed: Program Not Completed | 13 | 16.2% |

*One temporary loan modification did not convert to a permanent one.

WHAT DOES THIS MEAN?

The agreement rate for homeowners who complete negotiations is 54%. This is relatively low in comparison to the other programs in the study. However, the completion rate is high. This

⁵⁹ P = 0.047

⁶⁰ P = 0.052

may mean that more homeowners who are not viable for a loan modification enter negotiations with their lenders.

Mediation

Three cases were mediated in 2014.

| Mediation Outcomes | |
|---------------------------|---|
| Agreement: Retention | 1 |
| Agreement: Relinquishment | 1 |
| No Agreement | 1 |

TIME IN PROGRAM

On average, it takes three months for a homeowner to complete the program. Those who exit without completing it do so, on average, in 2 ½ months.

| Average days... | | How calculated... |
|----------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From filing to close | 108 | From filing to program exit |
| From program entry to program exit | 89 | From date homeowners submit request to enter mediation to program exit or beginning of TPP61 |
| From program entry to program exit – completed | 96 | From date homeowner submits request to enter mediation to program exit or beginning of TPP – cases that ended with an agreement or no agreement |
| From program entry to program exit – not completed | 77 | From date homeowners submit request to enter mediation to program exit – cases in which the homeowners withdrew or did not comply with program requirements |
| In pre-mediation phase | 76 | From date homeowners contact program to schedule pre-mediation session to date referred to mediation or program exit |
| In mediation phase | 64 | From date referred to mediation to program exit |

WHAT DOES THIS MEAN?

The program is moving the cases efficiently through the program. The court rule allows for 120 days to go through pre-mediation, the phase in which almost all homeowners complete

⁶¹ In order to make comparisons between all programs, whether they keep the case in the program during TPP or not, the time the homeowner is in TPP is not included in the time in program.

the program. The average is 77 days, with 96 days to get through the entire program. This is similar to other programs in this study, but much shorter than programs outside of Illinois.⁶²

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires⁶³

Most homeowners indicated they had a positive experience in the program

Pre-Mediation Procedural Justice

The court wanted homeowners in particular to have a positive experience in the program. That is, it wanted a process in which homeowners felt they were treated humanely and that they had some control over what was happening to them.

For the evaluation, this was measured by whether the homeowners experienced procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system.⁶⁴ Its presence or lack thereof has a profound impact on parties' satisfaction with the justice system and their perception of its fairness. Research has found that the most important characteristics of procedural justice are voice (the sense that one's voice has been heard in the process) and respect (the sense that one's feelings, ideas, and positions have been treated with respect in the process).⁶⁵ The pre-mediation session questionnaires asked the homeowners about whether the program coordinator (described as the "counselor") treated them fairly and with respect.

The homeowners all felt they were treated very fairly and with very much respect

| Pre-Mediation: Respect and Fairness | | | |
|--------------------------------------------------|-----------|----------|------------|
| | Very much | Somewhat | Not at all |
| Did the counselor treat you with respect? (n=30) | 100% | 0% | 0% |
| Did the counselor treat you fairly? (n=27) | 100% | 0% | 0% |

⁶² For example, in Connecticut, the average time in program is 484 days. See, Gloria Jean Gong and Carl Brinton, [CONNECTICUT JUDICIAL BRANCH FORECLOSURE MEDIATION PROGRAM](#) (October 2014). In Maine, the time in program averaged between 131 and 173 days. See, Laura S. Pearlman, [FORECLOSURE DIVERSION PROGRAM: REPORT TO THE JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL AFFAIRS AND THE JOINT STANDING COMMITTEE ON JUDICIARY](#), Maine Administrative Office of the Courts (February 13, 2014).

⁶³ The program coordinator hands the homeowner the questionnaire at the end of the last pre-mediation session. In all, 33 homeowners in 32 cases completed the questionnaire. In terms of cases, this is a 56% response rate.

⁶⁴ Alan E. Lind, "In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System," *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

⁶⁵ Id.

WHAT DOES THIS MEAN?

The program is achieving its goal of providing a process in which homeowners are treated with dignity and respect.

Pre-Mediation: Understanding

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward.

About half of all homeowners felt they understood much better what their options for their house were and how to work with their lender.

Pre-Mediation: Increase in Understanding (n=30)

| | Very much | Somewhat | No, understood before |
|-------------------------------------------------------|------------------|-----------------|------------------------------|
| Understand options better than before | 50.0% | 43.3% | 6.7% |
| Understand how to work with lender better than before | 53.3% | 33.3% | 13.3% |

WHAT DOES THIS MEAN?

The program is achieving the goal of increasing homeowner understanding. However, in comparison to other programs, fewer homeowners said they understood very much better. This could simply be because homeowners completed the questionnaires after their final pre-mediation sessions, when they would have already learned a lot about their options and how to work with their lenders.

Pre-Mediation: Satisfaction

Almost all homeowners were satisfied with their experience.

Pre-Mediation: Satisfaction (n = 30)

| | Very Satisfied | Satisfied | Unsatisfied | Very Unsatisfied |
|-----------------------------------------------------|-----------------------|------------------|--------------------|-------------------------|
| How satisfied are you with your overall experience? | 62.5% | 28.1% | 3.1% | 6.3%* |

WHAT DOES THIS MEAN?

This satisfaction rate should be considered to be satisfaction with the entire process because homeowners complete the questionnaires after they have been able to negotiate with their lenders. Their satisfaction is high, in comparison to those of homeowners who participate in mediation in other programs.

Mediation Session Questionnaires

Only three cases were mediated in the program's first year. Three homeowners and two attorneys responded to questionnaires. All their responses were positive.

Participant Characteristics

Given that the foreclosure crisis has hit Black/African-Americans and Latinos particularly hard,⁶⁶ it is a concern that the racial and ethnic makeup of those who participate in and complete the programs be similar to the racial and ethnic makeup of the county they serve. Further, programs were interested in knowing whether the most vulnerable homeowners were being served.

HOMEOWNER RACE/ETHNICITY⁶⁷

The race or ethnicity of those homeowners who participated in the program and completed it is relatively the same as for the county as a whole, with slightly fewer non-Hispanic Whites and more Black/African-Americans participating in the program than are represented in the county as a whole. This may reflect the rates at which foreclosure is affecting those groups. There is no significant drop off for any race or ethnicity as they move through the program.

| | Homeowner Race/Ethnicity | | | |
|------------------------|--------------------------|---------|-----------|--------|
| | Contacted | Entered | Completed | County |
| White, Not Hispanic | 54.6% | 54.9% | 51.0% | 62.6% |
| Black/African American | 41.2% | 40.7% | 44.9% | 30.4% |
| Latino/Hispanic | 0.0% | 0.0% | 0.0% | 3.7% |
| Asian | 3.1% | 3.3% | 4.1% | 1.40% |
| Multi-racial | 2.1% | 2.2% | 2.0% | 2.20% |

WHAT DOES THIS MEAN?

The program is doing a good job of bringing homeowners of all races and ethnicities into the program, and then serving them equally once they enter.

HOMEOWNERS' INCOME LEVEL

The majority of homeowners who entered the program had incomes below the county median of \$50,578. About half of those who completed the program were below the median income. Those

⁶⁶ Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#), Center for Responsible Lending (June 18, 2010).

Hall, Matthew, Kyle Crowder, Amy Springer. "Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions," AMERICAN SOCIOLOGICAL REVIEW (April 2015).

⁶⁷ The race/ethnicity percentages are for the primary homeowner only. There are no cases in which homeowners were of different races/ethnicities.

with a household income less than \$20,000 are less likely to complete the program than those in other income ranges. This difference is not statistically significant.

| Household Income | | | |
|---------------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <\$20,000 | 24.0% | 23.3% | 10.4% |
| \$20,000 - \$34,999 | 17.7% | 17.8% | 22.9% |
| \$35,000 - \$49,999 | 14.6% | 15.6% | 18.8% |
| \$50,000 - \$74,999 | 25.0% | 24.4% | 16.7% |
| \$75,000 - \$99,999 | 7.3% | 7.8% | 6.3% |
| \$100,000-\$149,999 | 8.3% | 8.9% | 10.4% |
| \$150,000+ | 3.1% | 2.2% | 0.0% |

WHAT DOES THIS MEAN?

Homeowners with little or no income are less likely to be offered loan modifications. In this instance, almost every homeowner who did not complete the program had a household income of less than \$20,000.

AGE OF HOMEOWNERS

Most primary homeowners⁶⁸ were younger than 50 years old.

| Homeowner Age | | | |
|---------------|-----------|---------|-----------|
| | Contacted | Entered | Completed |
| <30 years | 2.1% | 2.2% | 4.1% |
| 30-39 | 21.6% | 20.9% | 22.4% |
| 40-49 | 42.3% | 40.7% | 40.8% |
| 50-59 | 17.5% | 18.7% | 14.3% |
| 60-69 | 12.4% | 13.2% | 12.2% |
| 70-79 | 4.1% | 4.4% | 6.1% |
| 80+ | 0% | 0% | 0% |

⁶⁸ Primary homeowners are the homeowners who are designated as the first homeowner by the program

Discussions and Recommendations

The 20th Circuit program is doing a very good job of helping homeowners to save their homes once they enter the program. It has the highest retention rate for participants of all programs. However, its impact is limited by its low participation rate. The 16% of homeowners who participate is the second lowest among the Attorney General-funded programs. The difficulty the program is having in initially bringing homeowners into the program at the time their cases are filed is magnified by the fact that more than half of homeowners who contacted the program and then participated were ordered in at the time of their default judgment hearing.

FACTORS AFFECTING LOW PARTICIPATION

There are many reasons for the differences in participation rates among programs. This evaluation found two that were most important for the 20th Circuit program:

1. The program was developed as a [multi-step entry](#) program

As noted above, the mandatory programs have much higher participation rates. The difference appears to be partially about the message the homeowners receive. The two [one-step entry](#) programs and the [hybrid](#) program all send a notice to the homeowners that call the program “mandatory” and tells the homeowners they *must* take action – either appear for their session or call the program coordinator. None of them actually mandate homeowner participation. The mandatory programs then give the homeowners a date to appear, while the hybrid program gives them a date by which they must contact the program coordinator. The 20th Circuit program, on the other hand, tells homeowners they have the opportunity to participate and gives them the number of days they have to comply. In addition, homeowners may be confused about what they need to do because their notification of mediation tells them they must file the request for mediation within 30 days, but does not mention the financial questionnaire. The request does not mention the financial questionnaire, either.

While the one-step entry programs have much higher participation, using that model of participation is not recommended for a circuit with as many foreclosures as the 20th Circuit. Such a model would require either a different service delivery model or more facilitators than a single program coordinator, which would be cost-prohibitive. Further, the mandatory model might lead to the elimination of some of the aspects in which the 20th Circuit performs better, such as an individual orientation to the program and housing counseling attendance at pre-mediation sessions.

RECOMMENDATION: The program should explore ways to change what homeowners are told in their notification of the mediation program so that the homeowners feel more compelled to participate and have more guidance on how to do so. One particularly easy modification is to change the language on the notification of mediation so that it is clear that homeowners must complete both the request for mediation and the financial questionnaires within 30 days.

2. The financial questionnaire is a high hurdle to participation

When the court designed the program, it wanted to be sure to keep lenders accountable throughout the process. For that reason, the court requires that homeowners complete a detailed financial questionnaire and file it with the court clerk in order to participate in the program. If a questionnaire is on file, the court can rebut claims by the lenders that they do not have enough information to make a decision about whether to offer a loan modification.

This requirement appears to be a difficult hurdle for homeowners to overcome, as less than 60% of homeowners who started the entry process after receiving their notifications of the program with their summons completed the questionnaires on time. These homeowners generally did not receive assistance as they complete their questionnaire. In contrast, those homeowners who motioned the court to enter were more likely to receive assistance as they move through the process; 77% of them completed their questionnaires on time. In the 17th Circuit program, which has the same requirement of completing a detailed financial questionnaire in order to enter the program, more homeowners start the entry process, and 80% of those who do start the process complete it. There, as with homeowners who motion the court in the 20th Circuit program to enter the program, the homeowners receive assistance with their applications. This points to the need either to modify the entry process or to help homeowners to complete the current one.

RECOMMENDATION: The program should look into ways to help more homeowners complete their financial questionnaires. In the 17th Circuit program, the homeowners complete their questionnaire online, which immediately provides the housing counseling agency with their contact information and allows the counselor to contact the homeowners to see if they need help and to remind them of the deadline to complete it. This may be an option for the 20th Circuit program, which could use the same online program, splitting the cost.

Other programs do not have a requirement for homeowners to complete a financial questionnaire. Instead, they complete their packets and the lenders submit a document acknowledging receipt of the packets and detailing what further documents are needed.

RECOMMENDATION: The court should consider other ways to make lenders accountable to homeowners and the court that reduce the burden on homeowners, such as requiring the lender attorney to complete a [“Plaintiff’s Checklist,”](#) which has been working well in the 16th Circuit program.

HOMEOWNERS HAD A POSITIVE EXPERIENCE

The court wanted to improve communication and humanize the process for homeowners. To address this, the court requires that a representative for the lender with full settlement authority attend all sessions, from the first pre-mediation session onward. It is the only program to require this.

This model is working well. Most homeowners were satisfied with their experiences in pre-mediation and they all felt they were treated fairly and with respect by the program coordinator. Additionally, very few homeowners who entered pre-mediation left without receiving an answer from this lenders as to whether they would be offered a loan modification or other option to avoid foreclosure. This points to effective communication between the homeowner and lender.

RECOMMENDATION: As the court considers how to help homeowners after the grant ends, it should try to maintain this model.

TIME IN THE PROGRAM

The court also wanted to eliminate unnecessary delays in lenders reviewing homeowners' packets and making a decision about whether to offer loan modifications. To help achieve this, the court limited the number of pre-mediation sessions and instituted deadlines for homeowners and lenders to prepare and review financial documents. As with the other programs, this has partially worked. The cases are taking 96 days, on average, to complete the program, which is similar to the other programs. However, the court envisioned a two-session process to reach agreement. Instead, the process often takes three to four sessions. The court also has allowed extensions of deadlines to give the parties sufficient time to exchange documents. This is not a weakness of the program; it simply demonstrates the complexity of exchanging documents.

HOMEOWNERS RECEIVING SERVICES ACHIEVE BETTER OUTCOMES

About a third of homeowners received housing counseling assistance and another quarter were represented by a legal aid attorney. Those who received assistance from either were more likely to avoid foreclosure than those who did not. This is particularly true of homeowners who received legal aid assistance. More than 60% of those homeowners avoided foreclosure, compared to fewer than 30% of those who received no services. Of those who had a housing counselor help them, more than 50% avoided foreclosure.

RECOMMENDATION: Work with both the housing counseling agencies and Land of Lincoln to provide services to more homeowners.

Conclusion

The 20th Circuit foreclosure mediation program's high hurdles to entry limit participation; however, once homeowners enter the program, they are more likely than in any other program to retain their home. Homeowners are also offered a second chance to participate. Those that seize that opportunity are highly likely to keep their home. Homeowners also experience a process in which they feel they are treated fairly and with respect. The program should focus on ways to increase participation.

21ST JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM

Kankakee County

Overview

| | |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Launch Date | October 1, 2013 |
| Program Size | 135 cases entered the program in its first year |
| Type | One-step entry |
| Entry Process | Attend pre-mediation session |
| Intake | By PC* at first pre-mediation session |
| Pre-mediation | Up to 3 pre-mediation sessions with mediator and lender attorney to complete packet , status sessions with mediator and lender attorney for document exchange ; HO* may also meet individually with HC* or legal services at first pre-mediation session if they are available. |
| Mediation | Unlimited mediation sessions allowed by rule |
| Remain in Program During TPP?* | Yes |
| Timing of Foreclosure Stay | Date of service of process until end of TPP |
| Homeowner Cost | None |
| Lender Additional Filing Fee | \$150 |
| Mediator Payment | The filing fee is used by the court to pay the mediation provider organization; the organization is paid \$150 for every eligible case filed |
| Program Staff | 1 part-time program coordinator |
| Program Rule | Not available online |

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- A [lender](#) attorney must schedule a pre-mediation session before filing a residential foreclosure case
- All pre-mediation sessions are conducted by mediators
- A housing counselor is available at the pre-mediation session call
- Formal mediation is rare and only used in special circumstances
- Lender attorneys must attend pre-mediation sessions

* HC = housing counseling HO = homeowners PC = program coordinator TPP = trial period plan

STATISTICS AT A GLANCE

The program served 173 homeowners in 2014.

| Status of Cases Through Dec. 31, 2014 | |
|---------------------------------------|-----|
| Foreclosures | 256 |
| Contacted Program | 256 |
| Entered Program | 173 |
| Closed | 143 |

The program helps more than 2/3 of eligible homeowners.

| Program Impact | |
|-----------------------|-------------------|
| | % of Foreclosures |
| Homeowners Helped | 67.6% |
| Foreclosures Avoided* | 14.2% |
| Homes Retained* | 12.3% |

*Projected numbers based on closed cases.

21% of homeowners who participate in the program keep their homes, 39% avoid foreclosure.

| Outcomes of Closed and Completed Cases | | | |
|----------------------------------------|----|-------------------|----------------------|
| | # | % of Closed Cases | % of Completed Cases |
| Agreement: Retention/ TPP | 30 | 21.0% | 33.3% |
| Agreement: Relinquishment | 26 | 18.2% | 28.9% |
| No Agreement | 34 | 23.8% | 37.8% |
| Closed: Program Not Completed | 53 | 37.1% | N/A |

Those homeowners who completed the pre-mediation session questionnaires left feeling they had a better understanding of their options and how to work with their lenders.

| Pre-Mediation: Homeowner Experience (n = 22) | |
|-------------------------------------------------------|-----|
| Understand Options Better Than Before | 91% |
| Understand How to Work with Lender Better Than Before | 86% |
| Satisfied Overall | 91% |

- At the pre-mediation state, lender attorneys often meet with [homeowners](#) for a few minutes to go over where the [document exchange](#) process stands as they wait for the mediator to call them into their session; the homeowners then enter the pre-mediation session already knowing what the next steps are
- The mediator provider organization is paid \$150 for every eligible case filed

IMPORTANT FINDINGS

This program has the highest level of participation of all programs

68% of all eligible homeowners enter the program. This is 7% higher than the next highest program.

This program has the highest rate of eligible homeowners who retained their homes

A projected 14% of all eligible homes are saved through the program, which is 8% more than the next highest program.

This program has the lowest agreement rate of all the programs

50% of homeowners who complete the program do not get an agreement. This is most likely due to the high level of participation. Participants include homeowners who do not qualify for a loan modification or other option and possibly have no interest in keeping their home.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO MEET?

According to the court rule, “[t]he foreclosure mediation program is designed to alleviate the burden of costs and expenses to lenders, borrowers and taxpayers caused by Residential Mortgage Foreclosures. It is further designed to aid the administration of justice by reducing the backlog of court cases. It is also aimed at keeping families in homes to prevent vacant and abandoned houses that negatively affect property values and destabilize neighborhoods.”⁶⁹

PROGRAM ADMINISTRATION

This program is administered by the University of Illinois College of Law Community Preservation Clinic and Foreclosure Mediation Specialists, a private mediation firm. The University of Illinois received a grant from the Attorney General to manage the session calls. The program coordinator employed by the university conducts intake and orients homeowners at the bi-monthly pre-mediation session call. Foreclosure Mediation Specialists provides two mediators and collects the data. The mediators conduct all pre-mediation and mediation sessions. The 21st Circuit pays the firm \$150 per residential [foreclosure](#) filing for these services.

⁶⁹ Kankakee County Mandatory Residential Mortgage Foreclosure Mediation Program, Rule 13

The program partners are two HUD-certified housing counseling agencies, Community Service Council of Northern Will County⁷⁰ and the Institute for Consumer Credit Education. These agencies assist some homeowners with the completion of their [loan modification packets](#) and with the document exchange process.

ELIGIBLE CASES

All residential foreclosures filed after October 1, 2013, are eligible.

NOTIFICATION AND OUTREACH

The homeowners are notified about the program through the [Notice of Mandatory Mediation](#) attached to [the summons](#) served on them by the lender.

ENTRY PROCESS

The lender attorneys must schedule a pre-mediation screening session prior to filing for foreclosure. The summons they send to the homeowners instructs them to appear for a pre-mediation session. When the homeowners appear, they enter into the program.

PROGRAM PROCESS

Pre-Mediation Phase

All sessions are held during a special call at the Kankakee County Courthouse on the second and fourth Friday afternoons of the month. First appearances (pre-mediation screening sessions) must take place between 42 and 60 days of the issuance of the summons. They are all scheduled for 1:00 to 1:05 pm, while return appearances are scheduled at 1:30 and 2:30 pm. All sessions are conducted by one of two mediators, who generally rotate the call between them, and a housing counselor is sometimes available. The sessions are attended by the homeowners, the homeowner attorney if they have one and the lender attorney.

When homeowners arrive for their pre-mediation screening session, they check in with the program coordinator.⁷¹ After 1:05, she conducts a quick orientation about the program, starting with why the homeowners are there, since some do not realize what they are appearing for. She then walks them through what services are available. She tells them there is a housing counselor there who is willing to work with them. She ends by telling them what mediation is and that it can help them, whether they want to keep or relinquish their homes. The program coordinator also hands out brochures that describe the foreclosure process, including mediation. Information on Prairie State Legal Services is also available for those who qualify.

Once the program coordinator finishes the orientation, the mediator calls the homeowners into session in the order in which they arrived. In this first session, the mediator, lender attorney and homeowners discuss the homeowners' situation. They walk through the options available to all

⁷⁰ Community Service Council of Northern Will County no longer provides services to the program.

⁷¹ Starting in November 2014, a Justice Corp volunteer helped to check in homeowners.

homeowners, what is required to obtain those options and what the homeowner may qualify for. The mediator then examines the homeowners' documents and homeowner questionnaire to decide whether the homeowners meet the criteria for a loan modification. This decision is based on whether the homeowners have more income than expenses. If the homeowners do meet the criteria, then the case moves forward for a possible loan modification. If the homeowners do not meet the criteria for a loan modification, then the homeowners and lender attorney discuss the possibility of a [relinquishment](#) option. If the homeowners do not want to pursue relinquishment, the case is terminated from the program. If the case is going to proceed, the mediator informs the parties of what they need to do for the next session. If the homeowners did not bring the required documents or complete the homeowner questionnaire, the mediator schedules another screening session to go over the documents and make a decision as to whether the homeowners meet the criteria for a loan modification. This happens relatively frequently.

At the end of the screening session, the parties schedule the second pre-mediation session and the date is filed with the court. After completing the screening session, the mediator walks the homeowners over to the housing counselor, if the housing counselor is present, or provides a flyer for legal assistance. If the homeowners get assistance from the housing counselor, the counselor will help them collect the necessary documents and work with them to complete the loan modification packet.

Subsequent sessions tend to be short, often five to ten minutes. They are used to facilitate document exchange and negotiate new deadlines for submission or review of the documents, some of which may already have been negotiated between the lender attorney and the homeowners while waiting for their session to begin.

There is no limit on the number of sessions allowed, but the average is four to five per case. They generally end with an agreement for a temporary loan modification or other [foreclosure avoidance](#) option, or they are terminated when the homeowners do not appear for a session without good cause, when the mediator believes the homeowners are not participating in good faith or when the parties do not agree on any foreclosure avoidance option.

Mediation Phase

Formal mediation in this program is rare, and it was designed to be that way. Unlike other programs, the court rules require that a representative for the lender attends formal mediation in person. This makes mediation more burdensome on the lender than in other programs. Mediation is only used when the mediator determines that the parties are not communicating effectively and the homeowners continue to get conflicting information. The mediator may try to avoid mediation by having the lender representative appear by phone for a pre-mediation session to help clear up any miscommunication or misunderstanding.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not appear for a pre-mediation session
- The homeowners do not meet the criteria for any option to avoid foreclosure or do not wish to pursue the options
- The mediator determines that the homeowners are not participating in good faith
- The parties do not agree to any option to avoid foreclosure

Cases are returned to court for dismissal if the parties agree to a [retention](#) option other than a [temporary loan modification](#), or if they agree to a relinquishment option. If the parties agree to a temporary loan modification, the case is returned to court and the court maintains jurisdiction until the end of the trial period. If the modification is made permanent, the case is dismissed. If it is not, the foreclosure process begins.

Program Administration Perspectives

The program coordinator and one of the two mediators working with the program were each interviewed to gain their perspective on the program.

WHAT IS WORKING WELL?

The program coordinator said that in order to move cases smoothly through the court call, mediators and attorneys have to work well together. They have adapted to a system in which upwards of 20 cases are dealt with in one afternoon. She particularly noted that the lender attorneys have contributed to the efficiency of the call by meeting with homeowners prior to the sessions. The mediator who was interviewed pointed to the mandatory process as a strength. It removes most barriers to participation for homeowners, who he describes as “deer in headlights” when they arrive. He also said it “forces” lenders to the table from the outset.

CHALLENGES

The main challenge, according to the program coordinator, is the timing of cases for the calls. Homeowners making their first appearances are scheduled to arrive between 1:00 and 1:05, while returning homeowners arrive between 1:30 and 2:00. Because the first session takes on average 30 minutes, the cases become log-jammed. Often, the mediators do not complete the first appearances until 3:00. This means that many homeowners wait more than an hour for their session, which often lasts only five or ten minutes. The program staff, mediators and court have discussed flipping the first and returning appearances so that returning appearances are seen first.

Program Characteristics

PROGRAM SIZE

The program helped 173 homeowners in 2014, making it the third largest program in terms of annual participants.

| Annual Numbers | |
|----------------------------|-----|
| Foreclosures | 256 |
| Referred | 256 |
| Appeared for Pre-Mediation | 173 |

CASE CHARACTERISTICS

All cases were filed post-launch and all homeowners were referred by their Notice of Mandatory Mediation that accompanied their summons. Housing counseling is available for homeowners, but a counselor does not always attend the session calls. Homeowners are given information on legal services, but no legal services attorneys attend the session calls.

Program Performance

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- what proportion of homeowners participates
- how many of those homeowners complete the program by having their packet reviewed and negotiating with their lender
- how many of those outcomes are positive - either retentions or relinquishments, with an emphasis on homes retained
- how well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

| PERFORMANCE SNAPSHOT | |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Participation | 173 homeowners participated in its first year |
| Impact | The program serves 68% of homeowners facing foreclosure |
| Outcomes | 21% of homeowners who entered the program kept their homes 62% of homeowners who completed the program avoided foreclosure 54% of homeowners who avoided foreclosure kept their homes |
| Participant Experience | Homeowners felt respected and treated fairly in their pre-mediation sessions |

PROGRAM ACTIVITY

Case Status

The program had the second highest number of participants of all the programs.

| Status of Cases Through December 31, 2014 | |
|-------------------------------------------|-----|
| Foreclosures | 256 |
| Referred | 256 |
| Appeared for Pre-mediation | 173 |
| Closed | 143 |
| Homes Retained | 30 |
| Homes Voluntarily Relinquished | 26 |
| No Agreement | 34 |
| Program Not Completed | 53 |
| Pending | 30 |

Sessions Held

The mediators held 338 pre-mediation sessions: 173 first sessions and 165 continuing sessions. The program coordinator reported that the first sessions generally take 30 minutes, while the continuing sessions last five to ten minutes.

PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by each program. This includes providing information to homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packet, and facilitating negotiations with their lender.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowner may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and therefore do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

The 21st Circuit program has the highest impact of all the programs

The 21st Circuit program has benefitted 68% of homeowners facing foreclosure. A projected 27% avoid foreclosure, just over half of whom keep their home. In terms of percentages, this is by far the greatest impact of all the programs.

| Impact – All Eligible Foreclosures | | |
|------------------------------------|--------------------------|---------------|
| | 21 st Circuit | Comparison |
| Homeowners Helped | 67.6% | 10.9% - 67.6% |
| Foreclosure Avoidance* | 26.5% | 2.5% - 26.5% |
| Retention* | 14.2% | 2.1% - 14.2% |
| Voluntary Relinquishment* | 12.3% | 0% - 12.3% |

*These are projected based on outcomes of cases already closed.

The full 68% of homeowners who are helped get assistance when they appear for their first pre-mediation session. Prior to the session, they receive a quick orientation to the services available and the mediation program. During the session, the homeowners meet with a mediator and the lender attorney to go over their financial information and determine whether they meet the criteria for a loan modification. They also hear about their other options for their home. Thus, 68% of homeowners get some information that helps them navigate the foreclosure process whether or not they move forward in the program. The program then assists homeowners who continue in the process to try to avoid foreclosure by helping them submit their loan modification packets, and then by helping them to negotiate with their lenders.

PARTICIPATION

Because the program is a [one-step entry](#) model, its participation rate is the same as its impact: 68%. This rate is the highest of all the Attorney General-funded programs.

OUTCOMES

What Happens When Homeowners Enter the Program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot, and should not, expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

Slightly more homeowners who entered the program reached agreement to avoid foreclosure than exited early. Twenty-one percent of homeowners were able to keep their homes.

Closed Cases

Almost 40% of participating homeowners avoided foreclosure

This is the second highest rate of foreclosure avoidance for participating homeowners. However, the program has the lowest rate of home retentions, at 21%. The high rate of foreclosure avoidance is due to the 18% of homeowners who reached agreement to relinquish their homes. This is 12% higher than the next highest program.

| Outcomes of Closed Cases (n=143) | | |
|----------------------------------|----|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention/ TPP | 30 | 21.0% |
| Agreement: Relinquishment | 26 | 18.2% |
| No Agreement | 34 | 23.8% |
| Program Not Completed | 53 | 37.1% |

Completed Cases

More than 60% of homeowners who completed the program reached an agreement to avoid foreclosure, but only 33% retained their homes. This is the lowest rate of all programs.

| Outcomes of Completed Cases (n=90) | | |
|------------------------------------|----|-------------------|
| | # | % of Closed Cases |
| Agreement: Retention/ TPP | 30 | 33.3% |
| Agreement: Relinquishment | 26 | 28.9% |
| No Agreement | 34 | 37.8% |

WHAT DOES THIS MEAN?

The low rate of home retention for participating homeowners is likely due to the high participation rate, which means that more homeowners who do not qualify for a loan modification may be participating in the program.

Types of Retentions

Most retentions are temporary loan modifications.

| Retention Outcomes (n=30) | | |
|-------------------------------|----|-----------------|
| | # | % of Retentions |
| Temporary Loan Modification | 22 | 73.3% |
| Installment Payment Plan | 4 | 13.3% |
| Reinstatement | 2 | 6.7% |
| Forbearance | 2 | 6.7% |

Temporary Loan Modification Conversions

There is no information on whether temporary loan modifications convert to permanent ones.

Types of Voluntary Relinquishments

Most relinquishments are deeds in lieu or consent judgments.

| Relinquishment Outcomes (n= 26) | | |
|-----------------------------------------------|----|-----------------|
| | # | % of Retentions |
| Deed in Lieu/Consent Judgment | 20 | 76.9% |
| Short Sale | 6 | 23.1% |

Program Completion

According to the data, the most common reason homeowners did not complete the program was they had not appeared for a session. Others did not meet the criteria for a loan modification and decided not to move forward in the program. According to one of the program mediators, however, some homeowners did not complete their packets within the required timeframe. Early on in the program, six lender attorneys did not appear for the session; the cases were returned to court. There are no data on their disposition thereafter.

| Reasons Homeowners Don't Complete Program (n= 58) | | |
|---------------------------------------------------|----|-----------------|
| | # | % of Retentions |
| Did Not Appear | 30 | 51.7% |
| Did Not Meet Criteria | 22 | 37.9% |
| Lender Attorney Did Not Appear | 6 | 10.3% |

WHAT DOES THIS MEAN?

As with other programs, it is not clear how many homeowners did not complete the program because they voluntarily withdrew at some point and how many did not complete it because they failed to comply with a step for some other reason. The data do show that at least 22 of 58 homeowners who did not complete the program left the program once they discovered they would not qualify for a loan modification.

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires⁷²

Most homeowners had a positive experience in their first pre-mediation session

The homeowners left feeling they were treated fairly and respected. Almost all left with greater understanding and satisfied with their experience. However, the program had the lowest level of understanding gain among all programs.

⁷² The program coordinator asked homeowners to complete the questionnaires after their first pre-mediation session. However, she was unable to do so for most session calls. In all, homeowners in 22 of 173 cases responded to the questionnaire. This is a 13% response rate.

Procedural Justice

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a profound impact on parties' satisfaction with the justice system and their perception of its fairness.⁷³ To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

The homeowners all felt they were treated fairly and with respect.

| Reasons Homeowners Don't Complete Program (n=58) | | | |
|----------------------------------------------------|-----------|----------|------------|
| | Very much | Somewhat | Not at all |
| Did the counselor treat you with respect? (n = 21) | 100% | 0% | 0% |
| Did the counselor treat you fairly? (n=17) | 94.1% | 5.9% | 0% |

Three homeowners pointed to how they were treated when discussing what they liked:

- “Very nice to me.”
- “Everyone was very nice.”
- “The friendliness, promptness and actual concern about our situation.”

WHAT DOES THIS MEAN?

The program is providing the homeowners with an experience of procedural justice.

Satisfaction

More than 90% of homeowners were satisfied with their experience in pre-mediation

| Pre-Mediation: Satisfaction (n = 22) | | | | |
|-----------------------------------------------------|----------------|-----------|-------------|------------------|
| | Very satisfied | Satisfied | Unsatisfied | Very unsatisfied |
| How satisfied are you with your overall experience? | 45.5% | 45.5% | 4.5% | 4.50% |

WHAT DOES THIS MEAN?

While almost all homeowners were satisfied with their experience, only 10 of 22 were “very satisfied.” This contrasts with a much higher rate of homeowners saying they were “very satisfied” in other programs. However, the 13% response rate means that the responses may not be representative of all participants.

⁷³ Alan E. Lind, “In the Eye of the Beholder: Tort Litigants’ Evaluations of their Experiences in the Civil Justice System,” LAW & SOCIETY REVIEW, 24: 953-996 (1990).

Understanding

Almost all homeowners who completed pre-mediation left with a greater understanding of their options and how to work with their lender. However, only 27% said they understood very much better what their options were.

| Pre-Mediation: Increase in Understanding (n = 22) | | | | |
|-------------------------------------------------------|-----------|----------|------------------------------|-----------------------|
| | Very much | Somewhat | No, I still don't understand | No, understood before |
| Understand options better than before | 27.3% | 63.4% | 4.6% | 4.6% |
| Understand how to work with lender better than before | 36.4% | 50% | 9.1% | 4.6% |

Despite the lower rate of understanding indicated by the homeowners, the few homeowners who mentioned what they liked about their experience were apt to point to the information they received. For example:

- “Leaving after pre-mediation I felt that there are many options I did not realize prior to coming!”
- “Things were explained better.”
- “Good information. Any help is greatly appreciated!”

WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. The percentage of homeowners who felt they understood “very much better” what their options were and how to work with their lenders is much lower than the other programs, particularly the ones in which the homeowners first work with a housing counselor. This may be reason for concern. However, with a 13% response rate, it cannot be concluded that the responses are representative of all participants.

⇒ **Recommendation:** The program should look into whether homeowners need more information during their first session so that they can begin to make informed decisions. This could be done by adding a few more questions that explore this issue to the post-session questionnaire.

Participant Characteristics

The program did not collect this information.

Discussion and Recommendations

The 21st Circuit program excels at bringing homeowners into the program. The one-step entry model has the fewest hurdles to entry and the simplest message for homeowners to understand.

Once in, homeowners are almost as likely to agree relinquish their homes as to keep them. The homeowners have the lowest levels of understanding and satisfaction of all programs.

ONE-STEP ENTRY MODEL LEADS TO HIGH PROGRAM IMPACT

The program's one-step entry model, in which homeowners are told they *must* attend the pre-mediation session on a particular date and are not required to do anything further to participate, has led to 68% of eligible homeowners participating in the program. This is more than 40% higher than the [hybrid](#) and [multi-step entry](#) programs. The high participation rate, in turn, has led the 21st Circuit program to have a home retention rate of 14% of eligible homeowners, more than twice that of the program with the next highest retention rate.

RECOMMENDATION: The program should continue to tell homeowners they must attend pre-mediation and provide them with the date of the session. It also should keep the one-step entry process.

ORIENTATION OF HOMEOWNERS

In order to implement the one-step entry model, the court adopted a court call type of session appearance, in which all sessions take place on two Fridays per month. This makes scheduling and staffing the sessions more efficient. However, it can also make the sessions more chaotic. Homeowners often arrive not knowing why they were ordered to appear and with no prior orientation. They receive a five-minute orientation, and then meet with a mediator and their lender attorney for 30 minutes to go over their financial information to determine if they meet the criteria for a loan modification. Homeowners in other programs, on the other hand, are oriented prior to their session and meet with housing counselors for an hour or more. This may be why fewer homeowners leave the session understanding their options and how to work with their lenders than in these other programs.

RECOMMENDATION: To help homeowners better understand what is happening when they arrive for pre-mediation, the program should consider developing other methods for imparting information that homeowners can access prior to attending their first pre-mediation session, such as an online video.

NEED FOR INFORMED DECISIONS REGARDING RELINQUISHMENT

If homeowners do not understand their options, they may not make informed decisions, particularly in deciding whether to pursue a voluntary relinquishment or to return to the foreclosure process. Voluntary relinquishment is not always in the best interest of the homeowners, and the decision to give up one's home should be taken with care. Housing counselors may not be well equipped to help a homeowner navigate relinquishment options. There are complex legal issues that a homeowner must consider when weighing relinquishment versus the foreclosure process. Without accessible legal services, it can be difficult for a homeowner to thoroughly explore these issues, and legal services are not readily available in the 21th Circuit. This, combined with the program's high number of voluntary relinquishments, is concerning. Given the short amount of time the homeowners spend

with their mediator, and the fact that they are meeting with the lender attorney at the same time, it is possible the homeowners are deciding on relinquishment without all the necessary information.

RECOMMENDATION: The program should look into how it can provide homeowners access to legal assistance. Other programs have law students provide this service. This may be an option.

SCHEDULING OF SESSIONS

The court call type session also has led to homeowners waiting more than an hour to meet with the mediator for five minutes. This is because homeowners who come for their first sessions, which last 30 minutes, arrive first at 1pm. The homeowners who arrive for their continuing sessions do so between 1:30 and 2:00 pm. This does not give enough time for the first homeowners to get through their sessions before the second round arrive.

RECOMMENDATION: Since continuing sessions last only five to ten minutes, it may make more sense to have those homeowners arrive first. Alternatively, the court should consider spacing out the call, with some homeowners arriving later.

Conclusion

The 21st Judicial Circuit Residential Mortgage Foreclosure Mediation Program serves the highest percentage of eligible homeowners and helps the greatest proportion of eligible homeowners to save their homes than any other Attorney General-funded program. It also has a very high rate of homeowners who agree to relinquish their homes as well as the lowest rate of homeowner understanding. This combination is concerning. Ensuring homeowners are making informed decisions is the issue the court should most attend to.

V. DISCUSSION AND RECOMMENDATIONS

As hoped by the courts that launched them, all of the programs are doing a good job of providing participating [homeowners](#) with the opportunity to save their homes. They also are providing homeowners with another benefit the courts sought: a process in which they are treated fairly and with respect. The courts also wanted homeowners to gain an understanding of their situation that would benefit them, whether or not they continued in the program. Almost all homeowners who completed questionnaires said they gained that understanding.

While the programs are providing the benefits the courts sought when they set out to create them, there are areas for improvement. Some programs need to strengthen their partnerships with housing counseling and legal services, while others need to look at providing more homeowners with a second chance to participate. For [multi-step entry programs](#), the most important change would be to increase participation so that more homeowners can benefit.

Program Performance

HELPING HOMEOWNERS SAVE THEIR HOMES

Depending on the metric used, different programs are doing a better job at helping homeowners save their homes than others. When measured against all eligible [foreclosures](#), the 21st Circuit program is helping more than twice the percentage of homeowners than the next highest program – 14% to 6%. When measured against all participating homeowners, the 20th Circuit program rises to the top, with 39% of homeowners keeping their home, compared to 30% for the next highest program. In terms of homeowners who complete the program, the 17th Circuit program performs best, with 76% of all homeowners who complete mediation leaving with an agreement to keep their homes.

Nonetheless, all the programs are doing a comparatively good job of helping participating homeowners save their homes. Once homeowners enter the program, between 21% and 39% reach agreement to keep their home. If they complete the program, 33% to 76% are able to save their home. These results compare favorably to other programs in Illinois and across the United States in terms of homeowner [retention](#) rates. They range from 9% of contacted homeowners in Florida to 42% of participating homeowners in Connecticut. For homeowners who complete the program, the range of retention rates runs from 15% in Maryland to 67% in Connecticut.⁷⁴

⁷⁴ Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE DISPUTE RESOLUTION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

TREATING HOMEOWNERS WITH RESPECT

The programs excel at providing homeowners with a positive, respectful experience. Almost all homeowners in each program indicated they were treated very fairly and with very much respect from the beginning of the process through the end. Their comments to the open-ended questions about what they liked about their experience supported their responses to direct questions about respect and fairness, and provided insight into what they felt was important about their experience. For the homeowners, how they were treated was second in importance to gaining understanding about their options and the process.

HELPING HOMEOWNERS UNDERSTAND THEIR SITUATION

The programs are achieving their goal of helping homeowners understand their situation, a goal that is important if homeowners are to make an informed decision about their home and to successfully navigate the program process. In all programs, homeowners are given information as early as possible – at the first pre-mediation session. This means that the maximum number of homeowners is provided this service. In the 16th and 19th Circuit programs, information on the foreclosure process and the homeowners' options is provided prior to homeowners entering the program, so homeowners who make contact with the program but decide not to participate are helped as well.

Homeowners in all programs that collected questionnaires after pre-mediation sessions⁷⁵ felt the information they were given helped them to understand the options they had for their homes and how to work with their [lender](#) better than before. Interestingly, homeowners in the 17th and 19th Circuit programs, programs in which pre-mediation sessions are one-on-one housing counseling sessions, were much more likely to say they gained a “much better” understanding than in the 21st Circuit program. This suggests that housing counselors are providing more homeowners with the information they need to make an informed decision about their home and how to proceed. However, it cannot be concluded from the data collected that the one-on-one model is definitely better at helping homeowners to better understand how to move forward and what their options are because only 13% of homeowners responded to the questionnaire in the 21st Circuit program. Nonetheless, through questionnaire responses and comments, homeowners in the 21st Circuit program expressed an overwhelming appreciation for their experience with housing counselors and their comments were of a different tone than in the other programs.

Homeowners who met with housing counselors were more complimentary of the person helping them and were more likely to talk about the emotional impact of their experiences. Comments from homeowners indicated that their meetings with the housing counselors made them feel calmer and less anxious. This indicates that meeting one-on-one may give them the space to hear and absorb the information they need to understand their situation and make the appropriate decisions about their home.

⁷⁵ Homeowners in the 16th Circuit program did not complete pre-mediation session questionnaires.

LIMITING TIME IN PROGRAM

A main concern of those involved in designing the foreclosure mediation programs was to minimize the amount of time the foreclosure process was stayed. This meant minimizing the amount of time in the program, a goal that all programs collecting this type of data have achieved. On average, all cases, whether completed or not, spent between 48 and 89 days in the programs. These are short timeframes in comparison to the other programs that collect this type of data. In Connecticut, the average was 484 days. In Maine, the cases averaged between 131 and 173 days in the program; however, a pilot program was instituted to streamline the process, which reduced the average days in the program to between 78 and 110 days in the programs.⁷⁶

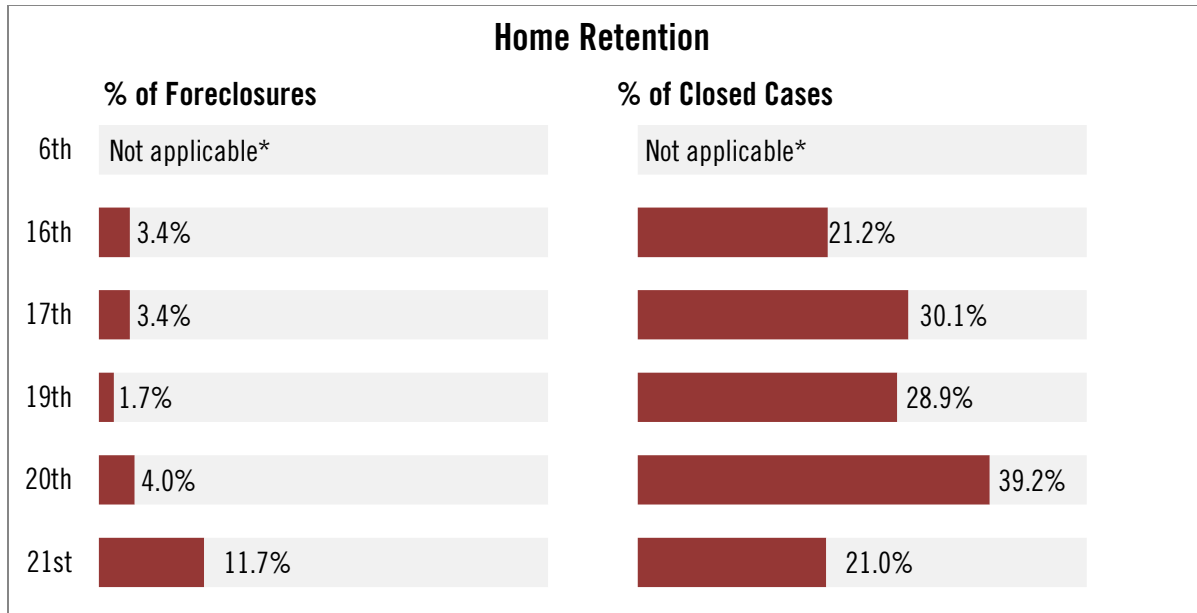
Expanding the Benefits to More Homeowners

ENCOURAGING PARTICIPATION AT CASE FILING

The 21st Circuit program has helped the highest percentage of homeowners facing foreclosure keep their home. Along with the 6th Circuit program, it also has the highest rate of participation. This high participation rate translates into a higher overall home retention rate for all foreclosures. Looking at the 21st Circuit program, it is apparent that the higher participation rate has a direct impact on the percentage of all homeowners in foreclosure in the program county who are able to keep their homes. In the 21st Circuit, 14% of homeowners who have a foreclosure complaint filed against them are able to keep their homes through the program. This compares to 6% in the next highest program.

However, as shown below, this difference in retention rates disappears if only those homeowners who participate in the programs are counted. The difference in impact, then, is not a difference in quality of the programs, but in the manner in which homeowners are brought into the programs. The high participation rate in the 21st Circuit program leads to a larger number of eligible homeowners reaching agreement to keep their home. However, it also means that more homeowners who do not meet the criteria for a loan modification participate at higher numbers as well, leading to a lower retention rate for homeowners who do participate.

⁷⁶ Gloria Jean Gong and Carl Brinton, [CONNECTICUT JUDICIAL BRANCH FORECLOSURE MEDIATION PROGRAM](#) (October 2014). In Maine, the time in program averaged between 131 and 173 days. *See*, Laura S. Pearlman, [FORECLOSURE DIVERSION PROGRAM: REPORT TO THE JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL AFFAIRS AND THE JOINT STANDING COMMITTEE ON JUDICIARY](#), Maine Administrative Office of the Courts (February 13, 2014).



* No cases had been completed, and thus no homes retained, in the 6th Circuit program before the end of the evaluation period.

The first question that may come to mind after looking at the data above is whether the key to improving program impact is to convert to the [multi-step entry model](#) used by the 6th and 21st Circuit programs. In this model, all homeowners with a foreclosure case filed against them are told they must appear for a pre-mediation session, which is the only step they need to take in order to participate. If the overall percentage of homeowners who keep their homes is directly related to participation rate, then maximizing participation would result in more homeowners keeping their homes. The highest participation rates are in the two one-step entry programs. Therefore, changing to this model could potentially have the greatest impact on helping homeowners facing foreclosure to save their homes.

However, changing to a one-step entry model is not feasible for circuits with a large number of foreclosures. The two circuits using the one-step entry model have small caseloads, with an estimated 228 total residential foreclosure cases per year in the 6th Circuit and 256 in the first year of operation in the 21st Circuit. This is much smaller than the other programs, which ranged from 730 to 2,130 cases in 2014. A one-step entry program would require a larger staff and more mediators in the larger programs than are used in the small ones and those resources are not available.

The data from all the programs indicate that easing entry and helping homeowners with the steps to participate have the potential of raising participation rates, thus increasing the programs' overall impact. The one-step entry programs encourage participation in three ways: tell the homeowners that they must appear for their pre-mediation session, tell them exactly when they need to appear, and then have their appearance be the only step they need in order to participate. The other programs can adapt these methods to their own use.

Recommendation: Lower barriers to participation

Programs should try to increase participation by making program entry as easy as possible. They should look at the requirements they have for participation and determine what aspects of those requirements are difficult for homeowners to overcome. They can then modify the requirements to make them easier to complete. Suggestions for individual programs are found in Section III.

Recommendation: Simplify and strengthen the message in the notice of mediation

Programs can look at the message they send to the homeowners to notify them about the mediation program to find ways to strengthen and simplify the language. For example, they can provide a date by which the homeowners need to contact the program. The language can also be strengthened, stating that the homeowners must comply by that date, rather than just offering them the opportunity to participate.

Recommendation: Orient homeowners to the program to help them make an informed decision about participating

Another way that programs can increase participation is to orient the homeowners to the program at their first contact. Experiences in the 16th and 20th Circuit programs, in particular, show that homeowners who are spoken to individually about how the programs can help them and what they need to do in order to enter the programs are more likely to participate. In those programs, homeowners who are spoken to individually are highly likely to complete the steps to participate.

Recommendation: Help homeowners with entry requirements

If homeowners are required to complete a step that is difficult to complete, the programs should help them to do so. In the 17th Circuit program, homeowners who start the application process, which includes a lengthy financial questionnaire, are contacted to find out if they require assistance. In the 16th Circuit program, program staff help the homeowners complete their [court appearance](#) form. These programs have the highest rate of homeowners who contact the programs eventually entering them.

HELPING HOMEOWNERS WHO WANT TO RELINQUISH THEIR HOME

Some homeowners can benefit from a [graceful exit](#), and the programs have shown they can provide that option. In the 16th Circuit program, homeowners are told they must call the program coordinator. When they talk to him, homeowners who do not want to keep their home learn about what the program can do for them. This has had the effect of encouraging them to participate. More than 10% of homeowners who entered the program did so with the hope of a graceful exit. More than 70% of those came to an agreement to do so.

Recommendation: Encourage homeowners who want to relinquish their homes to participate

The message now sent to homeowners in the multi-step programs is that homeowners can save their homes. This may lead homeowners who do not want to keep their homes to decide not to participate. The programs should consider how to frame their message in order to encourage the homeowners to participate.

GIVING HOMEOWNERS A SECOND OPPORTUNITY TO PARTICIPATE

The data strongly suggest that homeowners who could receive a loan modification are selecting themselves out of the programs at the outset, when they receive their notice of mediation. The 21st Circuit program's 14% retention rate for all eligible homeowners indicates that in the other programs a significant number of homeowners who could benefit from foreclosure mediation are not participating. In the 6th and 21st Circuit programs, more than 60% of homeowners respond to their "mandatory" notice by appearing for their pre-mediation session. This indicates that the issue of participation is not a lack of awareness but self-selection. Furthermore, in the 20th Circuit program, homeowners who are ordered into the program at their default judgment hearing are successfully obtaining loan modifications, showing that homeowners who could benefit are not responding to the notice of mediation.

Recommendation: Judges should order appropriate cases to mediation

All programs should offer homeowners a second opportunity to participate by ordering appropriate cases into the program at the default judgment hearing. These should be homeowners with incomes and who have demonstrated that they have previously tried to work with their lender. To simplify the process for homeowners, the judges should order the cases to mediation on the court's own motion, rather than requiring the homeowners to file a formal motion.

INCLUDING OLDER CASES

In the 17th and 20th Circuit programs, the judges have ordered a significant number of cases filed pre-launch into the program. These cases have yielded enough positive outcomes to demonstrate that older cases can benefit from mediation. This is particularly true in the 20th Circuit program, in which older cases, including those filed two or more years before entering the program, were more likely than not to end with a loan modification.

Recommendation: Judges should order in older cases, when appropriate

As with offering homeowners a second opportunity to participate, the process of ordering older cases into the program should be kept simple for homeowners by having the judges order cases to mediation on the court's own motion.

Requirements for an Effective and Efficient Process

MAINTAINING OR STRENGTHENING SERVICE PARTNERSHIPS

Importance of Services

In each program, the judges and program coordinators talked either about how beneficial it was to have services or the need for services if they were not available. Those programs with adequate housing counseling services noted the important role that housing counselors play in helping homeowners to submit their [loan modification packets](#), facilitating [document exchange](#) and preparing them for mediation. Those without sufficient housing counseling noted the benefits to

those homeowners who receive this service. Most programs do not have access to legal services. The program coordinators in those programs note that homeowners who want to relinquish their home or have particular legal needs are not being properly served.

The data from the programs support these observations. Three programs (the 6th, 17th and 19th Circuit programs) mandate that homeowners meet with housing counselors (or, in the 6th Circuit program, either a housing counselor or a legal services attorney). In the other three, the homeowners are offered the services, when available, (the 20th and 21st Circuit programs) or allowed to decide whether to meet with a housing counselor (the 16th Circuit program). In the 17th and 19th Circuit programs, homeowners who met with the housing counselor indicated they obtained a high level of understanding and they have particularly high rates of satisfaction with their experience. The data from the 20th Circuit program also point to housing counselors having a positive impact on outcomes, with more homeowners being able to keep their homes.

Only in the 20th Circuit program have legal services helped a significant number of homeowners. The data from that program show that those homeowners who are represented by legal services are more likely to keep their homes than those who have no services, and slightly more likely than those homeowners who only receive assistance from a housing counselor.

Recommendation: Keep access to housing counseling in the future

Currently, the programs should strive to provide housing counseling to as many homeowners as possible. After the grant period ends, courts interested in sustaining their foreclosure mediation programs should work with housing counseling agencies to ensure that homeowners continue to have access to their services.

Recommendation: Find ways to provide access to free legal services

Providing legal services has been more of a challenge for the programs, and will continue to be so in the future, since legal services agencies no longer have funding for assisting homeowners facing foreclosure. A couple of programs have tried to fill the representation void by using law clinic students. While these efforts have not had much of an impact thus far, it may be worth trying to make such efforts more effective.

FACILITATING LOAN MODIFICATION PACKET SUBMISSION AND DOCUMENT EXCHANGE

In most programs, the most common reason homeowners leave the program without completing it is not submitting their packet within the required timeframe. In interviews with those administering or providing services in each of the programs, it became clear that helping homeowners submit their packets and shepherding homeowners and lenders through the document exchange process requires on-going facilitation by housing counselors, program coordinators or both. Homeowners need prodding to be sure they supply the documents their lender requests and need help correctly filling out paperwork. Lenders need to be held accountable for reviewing the loan modification packets and requesting additional documentation from homeowners in a timely manner. If review of the packet

and the request for additional information is delayed, existing paperwork goes stale and the homeowners need to start from the beginning. Without active facilitation of the process, the same lack of communication between the homeowners and lender that the foreclosure mediation programs were created to address is likely to continue.

Recommendation: Continue to provide intensive facilitation of packet submission and document exchange

The programs each have different methods for helping homeowners submit their packet and facilitating document exchange, each of them labor intensive. As the programs move forward, they should continue to provide this assistance in order to ensure that those homeowners who can and want to obtain an agreement to [avoid foreclosure](#) complete their packet and are able to get to the point at which they can negotiate with their lender.

ENSURING COMMUNICATION AND COLLABORATION

Judges and program administrators attributed some of their programs' success to good communication and collaboration between the different organizations that are involved in their programs. This generally means communication between housing counseling, program coordinators, judges and court administration. With good communication, case management and program management is smoother. A clear, streamlined process also makes it easier for homeowners to move successfully through the program, decreasing the likelihood that they drop out of the program. Clear communication between the court and the program is also extremely important if either of the parties is not in compliance with program requirements.

Recommendation: Continue or implement regular meetings

Some of the programs have regular stakeholder or working group meetings to discuss any issues that crop up or to consider improvements to the program. These meetings should continue. Other programs that do not have such meetings should consider holding them.

Conclusion

The Attorney General-funded foreclosure mediation programs were created with one major goal in mind: to give homeowners facing foreclosure a fair chance to save their homes. The courts' efforts to create these programs by and large came from a shared experience of homeowners coming before them not knowing how to navigate the foreclosure process and frustrated in their attempts to communicate with the lender and to arrive at the point at which they could obtain a loan modification or other foreclosure avoidance option.

To remedy this, the courts wanted to create a process in which homeowners learned more about their situation and received the assistance they needed to move forward. They also wanted a process in which homeowners were able to communicate with their lenders in a forum in which homeowners were treated fairly and with respect. They wanted to ensure that all this happened within a process that held both homeowners and lenders accountable and kept the cases moving

forward in a timely manner. Despite each having a different program model, the programs are all providing a process that accomplishes these objectives. Each model has its strengths and its areas for improvement, but each performs the essential tasks well. They are helping participating homeowners keep their homes. They are providing a process in which homeowners are treated fairly and with respect. They are helping homeowners to understand their options for their home and how to work with their lender. And they are doing all of this in an efficient process that is completed within just a few months.

APPENDICES

DEFINITIONS

Definitions Specific to this Evaluation

Circuit: In this evaluation, the term “Circuit” refers to one of the 24 Judicial Circuits in Illinois. Some of those circuits are made up of multiple counties and others are single-county circuits. For those circuits comprised of multiple counties, the evaluation refers to the Circuit number and then indicates which counties are served. In the 6th, 20th and 21st Circuits, only one county is served by each program, while in the 17th Circuit both counties are served by the program, but these are referred to as the 6th, 20th, 21st and 17th Circuit programs.

Foreclosure: This evaluation uses the term “foreclosure” as it is used in the vernacular, to refer to both the process of foreclosing on a home by a foreclosure action that is filed in court as well as the final act of a lender obtaining ownership of a home as the result of a court granting foreclosure.

Foreclosure avoidance: After a foreclosure lawsuit is initiated, the options are that the foreclosure process will continue, resulting in foreclosure judgement and sale, or the lender and homeowners may agree to some foreclosure alternative. Alternatives where the homeowners retain possession of their home are known as [retention](#) agreements. Alternatives where the homeowners vacate the property are known as [relinquishment](#) options.

Homeowners: The term “homeowners” is used in this evaluation – instead of other terms such for those who have borrowed via a mortgage, such as borrowers, debtors or mortgagors – because the programs studied specifically work with those who borrow money to purchase a home.

A further distinction is drawn between the use of the term “*the* homeowners” and “homeowners.” “*The* homeowners” refers to the person or people who have taken out a mortgage to own a single home. For example, “The homeowners decided to work through a foreclosure mediation program to try to keep their home.” Likewise, “homeowners” is used as the plural of “the homeowners.” For example, “Homeowners attend housing counseling sessions before meeting with lenders.” While this system may create moments of grammatical confusion, it is intended to differentiate between the owner(s) of a particular home who are defendants in a case concerning that home as compared to a group of people who all own homes. Thus, when discussing data, such as “homeowners entering the program,” the evaluation is not quantifying individual people who own homes, but rather, homes.

Lenders: The term “lenders” is used in this evaluation to refer to the various creditor entities that may be involved in foreclosure mediation, such as banks and servicers.

Foreclosure Terms

Document exchange: The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and the lender’s review of that packet. During that time, the lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become “stale” and updated versions must be submitted.

Graceful Exit/Relinquishment: With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home. For example, through the federal government’s Home Affordable Foreclosure Alternatives (HAFA) Program, the homeowners may be able to receive assistance, such as with relocation, to help make it possible for them to transition to a new home after a short sale or deed in lieu of foreclosure.⁷⁷

Cash for Keys: With a cash for keys program, the lender offers the homeowners cash to vacate the property quickly, leaving it in good condition. This cash can assist the homeowners with expenses such as moving costs and security deposits in rented homes.

Consent Foreclosure: The lender and homeowners may agree to a consent foreclosure, where the homeowner will have no right of redemption and the lender agrees not to file for a deficiency judgment.

Deed in lieu: With a deed in lieu of foreclosure, the lender lets the homeowner give the title to the property back, transferring ownership back to the lender. A lender will not accept a deed in lieu of foreclosure if there are any other liens on the property. The lender may require that homeowners try to sell the property for 90 days first before approving a deed in lieu. One benefit of deed in lieu is that the lender may agree to waive the deficiency judgement, releasing homeowners of liability under the mortgage.

Short Sale: In a short sale, the lender agrees to let the homeowners sell the property to a new buyer for an amount less than what the homeowners currently owes the lender.⁷⁸

HAMP (Home Affordable Modification Program): A federal government program that helps homeowners obtain loan modifications from participating lenders. Most large lenders participate; a “HAMP review” is their first step in considering a loan modification.

Loan modification packet: In order to be considered for HAMP, homeowners must submit an “Initial Package” to their servicer.⁷⁹ The Initial Package includes a request for modification and

⁷⁷ “Home Affordable Foreclosure Alternatives (HAFA) Program,”
<http://www.makinghomeaffordable.gov/programs/exit-gracefully/Pages/hafa.aspx>

⁷⁸ Id.

affidavit, tax forms, verification of income and a Dodd Frank certification form.⁸⁰ Lenders often ask that homeowners complete the lenders' specific Request for Mortgage Assistance (RMA) Application. The RMA Application will allow the lender to evaluate the homeowners for HAMP or other foreclosure prevention alternatives. The RMA Application requires detailed information, including borrower details, property details, income worksheets, a hardship affidavit and tax forms.

Retention: An alternative to foreclosure that allows the homeowners to retain possession of the home.

Forbearance: A forbearance reduces or suspends mortgage payments for a period of time. Therefore, a forbearance can be helpful to homeowners experiencing a temporary hardship. At the end of the forbearance period, the homeowner must bring the loan current.⁸¹

Modification: Homeowners who wish to remain in their homes can ask to be evaluated for a loan modification. The lender will run a net present value test, which measures the benefit to the investor of a loan modification, part of which is the homeowners' ability to pay a new loan amount.⁸² A modification may be under [HAMP](#), but proprietary modifications may be available, as well. HAMP modifications are generally more favorable for homeowners and should be evaluated first.⁸³ Loans are modified based on a "waterfall analysis," meaning that the lender will evaluate a series of changes to the loan (capitalizing arrearages, reducing interest rate, extending amortization term, forbearing principal and/or reducing payment) to see if the homeowners' payment can be made affordable.⁸⁴

Redemption: Redemption is when the homeowner pays off the whole loan. In Illinois, the right to redeem, or to pay the balance of the mortgage and fees, expires seven months after service of summons or three months after judgment, whichever comes later.⁸⁵

Reinstatement: Reinstatement is when homeowners catch up on all missed payments and fees. Reinstatement ends the foreclosure suit so that the homeowner is up-to-date on the mortgage.⁸⁶ Homeowners can only reinstate once every five years.⁸⁷

⁷⁹ "Request a Home Affordable Modification," <http://www.makinghomeaffordable.gov/get-assistance/request-modification/Pages/default.aspx>

⁸⁰ Id.

⁸¹ NOLO, Legal Encyclopedia, <http://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html>

⁸² National Consumer Law Center, training material slides on file with Resolution Systems Institute.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Illinois Legal Aid Online, http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

⁸⁷ Id.

Temporary loan modification: Under HAMP, if homeowners are approved for a modification, they must first complete a three month trial period plan (TPP). It is not necessary for homeowners to sign the trial modification agreement; they just have to start making timely payments to accept it.⁸⁸ During the TPP, the amount the homeowners owe the lender continue to accrue. Payments are held in a suspense account until the amount of a full payment under the mortgage note is reached, which is when the payments are applied. After three payments, the TPP should be converted into a permanent modification. Conversion to permanent modification can sometimes be stalled, which homeowners should not be penalized for. After the permanent modification is in place, arrearages are capitalized and interest will start to accrue at the reduced rate.⁸⁹ In the case of a proprietary modification not under a government program, the lender may still require a trial period.

Foreclosure Program Types

Hybrid: This term is used to describe the 16th Circuit program. In this program, homeowners receive a notice of mediation that says they must contact the program coordinator in order to participate, but they also must file an appearance. Thus, it is a hybrid of the one-step entry and multi-step entry models.

Multi-step entry: The term “multi-step entry” is used in this study to describe a program in which the homeowners receive a notice of mediation with their summons that tells them they have the opportunity to participate in the mediation program. They then must complete two or more steps to participate. The 17th, 19th and 20th Circuit programs use this model.

One-step entry: The term “one-step entry” is used in this study to describe a program in which the homeowners receive a summons that includes the date and time that must appear for their first pre-mediation session. When the homeowners appear for the session, they are considered to have entered the program, thus only needing one step to enter. The 6th and 21st Circuit programs have this type of program.

General Court Terms

Complaint: “A written statement by the plaintiff that starts a lawsuit. It says what the plaintiff thinks the defendant did and asks the court for help.”⁹⁰ In the foreclosure context in Illinois, the complaint

⁸⁸ National Consumer Law Center

⁸⁹ National Consumer Law Center

⁹⁰ Illinois Legal Aid Online,

http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

form must comply with 735 ILCS 5/15-1504.⁹¹ The mortgage and current copy of the note should be attached. The plaintiff should identify the “capacity” in which it brings the suit, such as owner or agent.⁹² The complaint should also specify the current unpaid balance and per diem interest. Under 12 C.F.R. § 1024.41, the foreclosure complaint cannot be filed until the borrower is 120 days late.⁹³

Default: Default is defined by mortgage documents, but usually means a missed mortgage payment. Default could also result from a lack of insurance, sale of property, failure to make required repairs, etc.⁹⁴

Filing an Answer: An answer is the defendant’s response to the foreclosure complaint. The homeowners/defendant has 30 days from service to file the appearance and answer.⁹⁵ Under 735 ILCS 5/15-15-4(h), homeowners can answer or file a counterclaim.⁹⁶ If the defendant does not file an answer, the court will proceed with the foreclosure.

Filing an Appearance: By filing an appearance, a homeowner acknowledges the lawsuit, but makes no claim that he or she agrees with the lender’s suit. Having an appearance on file means the homeowner will be notified of all future court dates. There is a fee to file an appearance, but fee waivers may be available.⁹⁷

Service of Process: Service is the delivery of “legal papers to the opposing party in a case.”⁹⁸ Service gives the defendant notice of the legal action and is carried out by the sheriff or process server. If personal service is not possible, a notice will be put in the local newspaper and the homeowner will be considered served by publication. Most program deadlines start from when service is made upon the homeowner.

Summons: “A notice to a defendant that a lawsuit against him or her was filed in a court and that the defendant has to appear in court.”⁹⁹ In the foreclosure context, the summons must include a Homeowner Notice (735 Illinois Compiled Statutes 5/15-1504.5). This notice explains the homeowners’ rights in terms of possession, ownership, [redemption](#) and surplus, among other things. For jurisdictions with foreclosure mediation, a notice of foreclosure mediation is attached to the summons and complaint.

⁹¹ Id.

⁹² Id.

⁹³ Id.

⁹⁴ National Consumer Law Center

⁹⁵ Illinois Legal Aid Online

⁹⁶ National Consumer Law Center

⁹⁷ Illinois Legal Aid Online

⁹⁸ Id.

⁹⁹ Id.

EVALUATION METHODOLOGY

This evaluation is the first of two that were funded by the Office of the Illinois Attorney General. It is formative, meaning that the goal is to provide guidance to the courts and the programs about what is working well and how they can improve. It is not meant to determine if one particular model is better than any other or to determine whether the homeowners who participated in the programs were better served than those who did not. The evaluation examines program processes, participation, outcomes and the time spent in the programs. It also examines participant experience, with a focus on whether homeowners were treated fairly and with respect, and whether they gained an understanding about their situation.

Evaluation Period

The evaluation period for this study begins with the launch of each program and ends with cases that were filed by December 31, 2014. This means that there was a year or more of data for the 16th, 19th, 20th and 21st Circuit programs, but only seven months for the 17th Circuit program and three months for the 6th Circuit program. Additionally, in the 6th Circuit program, only two pre-mediation session calls had been held prior to the end of the evaluation period.

Data Collection Tools

ONLINE CASE MANAGEMENT AND MONITORING SYSTEM

One key to this evaluation was the creation and use of uniform data fields across six different program models. The evaluator worked with program coordinators, court personnel and housing counselors to customize a commercially-available online case management system to fit the foreclosure mediation programs' case management and data collection needs. The system was designed so that almost all data were collected automatically and did not require program staff to spend time entering data needed for the evaluation. For example, participant questionnaires were all scannable.

This system was used by five of the six programs in the study. In the 21st Circuit program, the mediation provider, Foreclosure Mediation Specialists, wanted to keep its data collection uniform with the other programs it was administering and declined to use the online system. The program administrator did, however, provide data the evaluator could adapt to work with the information the other programs were collecting.

Before each program launched, as well as during the evaluation period, the evaluator continued to work with each program to further customize fields to fit both their case management needs and the evaluator's need for a uniform set of definitions for each data collection field. The customized online

system enabled the five participating programs to collect the same data so that they could be assessed on the same criteria, allowing an apples-to-apples comparison.

The data collected from the online system included homeowner demographics, dates between each milestone to determine how long it was taking for cases to get through each phase of the process, the point at which each homeowner left the program, and case outcomes, including whether temporary loan modifications were converted to permanent modifications.

POST-SESSION REPORTS

The online system included online reports to be completed by the person charged with conducting the sessions. The reports collected data on whether or not the session was held, the reason it was not held and what the result of the session was if it was held. If it was the concluding session, the final outcome was recorded, as well. Finally, it included the amount of time spent in the session and whether the parties complied with the court rules.

These reports were completed after each session. In the 17th and 19th Circuit programs, the pre-mediation session report was completed by the housing counselor. In the 20th and 6th Circuit programs, the outcomes were entered by the program coordinator. The reports were not completed in the 16th or 21st Circuit programs. The mediation session reports were completed by the mediators in the 16th, 17th and 19th Circuit programs.

POST-SESSION QUESTIONNAIRES

Participant questionnaires in a paper-and-pencil format were created for pre-mediation and mediation sessions. In the 19th Circuit program, a questionnaire was created for its group informational session as well. The questionnaires were designed as optical mark recognition forms that allowed them to be scanned into software that automatically read the participants' responses into the database.

Informational Session Questionnaires

Questionnaires for the group informational session in the 19th Circuit program examined whether the goals of the session were met and provided an opportunity for homeowners to rate the presenter. They also collected the same demographic data as is collected in the online system. The questionnaires were passed out to homeowners at the end of the sessions. They were available in English and Spanish.

Pre-Mediation Session Questionnaires

The questionnaire completed after pre-mediation sessions in all programs asked homeowners about how much they learned about their options and how to work with their lender, how they were treated, and their overall satisfaction. The questionnaire was available in English and Spanish. Programs had different practices for distributing the questionnaires:

- In the 17th and 19th Circuit programs, the housing counselor handed the homeowners the questionnaire after their last session. Homeowners completed the questionnaire after housing counselors stepped away.
- In the 6th and 21st Circuit programs, the program coordinator asked homeowners to complete the questionnaire after their first pre-mediation sessions. The homeowners had already left their session and were therefore no longer in the same room as the person with whom they met for their session.
- In the 20th Circuit program, the program coordinator asked homeowners to complete the questionnaire after the final pre-mediation sessions. This meant that they completed it after they completed the program and had negotiated with their lenders, in most cases. The program coordinator stepped away while the homeowners completed the questionnaire.

Mediation Session Questionnaires

Parties and attorneys completed separate mediation session questionnaires. The questionnaires were adapted from the model forms developed by a joint project of Resolution Systems Institute and the American Bar Association Section of Dispute Resolution. These forms were the product of a national committee of researchers and program administrators and had been tested in two mediation programs prior to their use for the Illinois foreclosure mediation programs.

The questionnaires examined procedural justice factors, mediator coercion and helpfulness, fairness and satisfaction. The questionnaire for attorneys also asked whether they would use their mediators again. The party questionnaire was available in English and Spanish.

The participants were asked to complete the post-session questionnaire at the end of each session.¹⁰⁰ The mediator asked the participants to complete the form, and then left the room. Because the representatives for the lender participated by phone, the lender attorneys read them the questions and filled out the questionnaire for them. For the evaluation, only the last questionnaire completed by each participant was used to calculate aggregate responses.

INTERVIEWS

The evaluator interviewed all program coordinators, as well as a judge in each of the programs, except the 6th and 21st Circuit programs. She also interviewed others involved in the programs if they were extensively involved in its administration. This included the housing counselor in the 17th Circuit program and a mediator who managed the cases and conducted half of the sessions in the 21st Circuit program. Two lender attorneys were also interviewed. All interviews were semi-

¹⁰⁰ The questionnaires were not used in the 21st Circuit program because formal mediation was rare. No mediations had occurred in the 6th Circuit program; therefore the questionnaire had not yet been used there.

structured and conducted over the phone. For all but the program coordinators, the interviews lasted 20 to 30 minutes. The program coordinator interviews took about two hours each.

Limitations of the Study

In setting up the online system for data collection purposes, the evaluator aimed to have uniform data and uniform definitions of what each field represented. However, the programs, at times, developed their own uses for some of those fields and definitions that did not coincide exactly with the other programs. In order to make the data more uniform, the evaluator redefined the fields when analyzing the data; however, there may be some skewing of the data because of the differences in how the data were collected.

The evaluation was conducted by an employee of Resolution Systems Institute. Her status as an employee of RSI may have led to an unconscious bias when evaluating the programs administered by RSI, although she guarded against it.

ILLINOIS FORECLOSURE MEDIATION PROGRAM

Information Session Homeowner Survey

To help us to best provide information to homeowners like you, please answer the questions below. Your responses will be kept confidential and will be used to evaluate our services.

Answer Selection: Correct = ● Incorrect = ✕ ✓ ⊖

Date of Class:

Presenter:

| | Excellent | Good | Poor | Very Poor |
|------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. How would you rate the class overall? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Please let us know how well you understand the following topics from the presentation:

| | Very well | Somewhat | Not at all |
|---------------------------------------------------|--------------------------|--------------------------|--------------------------|
| 2. The options available to you to save your home | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. How the foreclosure mediation program works | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. How to contact AHC | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Please rate the presenter on the following:

| | Excellent | Good | Poor | Very poor |
|---------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 5. Presentation of the material | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Knowledge of the material | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Organization of the material | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

8. Are you eligible to participate in the foreclosure mediation program? This is the program where you can sit down with the bank to mediate the foreclosure.

☐ Yes

☐ No

9. What did you like most about the class?

10. What did you like the least about the class?

PLEASE TURN OVER ⇒

It is important for us to know who our program is serving. Your responses to the following questions will help us do that. You don't have to answer the questions, but your help is appreciated. Your answers will remain completely confidential.

Ethnicity:



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- ☐ American Indian/Alaskan Native
- ☐ Asian
- ☐ Black/African-American
- ☐ Latino/Hispanic
- ☐ Native Hawaiian/Pacific Islander
- ☐ White, Not Hispanic
- ☐ Multiracial
- ☐ Other:

Household Income:

- | | |
|--------------------------|----------|
| <input type="checkbox"/> | Under 30 |
| <input type="checkbox"/> | 30-39 |
| <input type="checkbox"/> | 40-49 |
| <input type="checkbox"/> | 50-59 |
| <input type="checkbox"/> | 60-69 |
| <input type="checkbox"/> | 70-79 |
| <input type="checkbox"/> | 80+ |


- ☐ Less than \$20,000
- ☐ \$20,000 - \$34,999
- ☐ \$35,000 - \$49,999
- ☐ \$50,000 - \$74,999
- ☐ \$75,000 - \$99,999
- ☐ \$100,000 - \$149,999
- ☐ \$150,000+

 Male
 Female

FORECLOSURE MEDIATION

Pre-Mediation Session Report

Please fill out this form after your pre-mediation session.

| | |
|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Final Report | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Type of Service | <input type="checkbox"/> Facilitated Bi-Lateral Session <input type="checkbox"/> Housing Counseling Session <input type="checkbox"/> Pre-Mediation Session <input type="checkbox"/> Legal Services (Required) |
| Was the session held? | <input type="checkbox"/> Yes, Service Completed (R) <input type="checkbox"/> Yes, Service Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Session Rescheduled |
| Session Date | <input type="text"/> mm/dd/yy  |
| Time Spent in Session (hours; can be in portions: 1.25 etc) | <input type="text"/> |
| Final Session Result | <input type="checkbox"/> Referred to mediation <input type="checkbox"/> Referred to other service <input type="checkbox"/> Accepted homeowner as client (legal services only) <input type="checkbox"/> Return to court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement <input type="checkbox"/> Other (indicate below) |
| Reason returned to court (check all that apply) | <input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Other (indicate below) |
| If other reason returned to court, describe | <input type="text"/> |

FORECLOSURE MEDIATION

Pre-Mediation Session Report

| | |
|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reason case rescheduled or continued (check all that apply) | <input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner did not provide sufficient documents <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below) |
| If "other" above, reason rescheduled/continued | <input type="text"/> |
| Which service was homeowner referred to? | <input type="checkbox"/> Land of Lincoln Legal Services <input type="checkbox"/> Prairie State Legal Services <input type="checkbox"/> Bankruptcy attorney <input type="checkbox"/> Credit/debt management agency <input type="checkbox"/> Social services agency (select below) <input type="checkbox"/> Other (indicate below) |
| If "particular agency" above, which one? | |
| If "other" above, which other service was the homeowner referred to? | <input type="text"/> |
| Final Case Outcome | <input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below) |
| If other case outcome, please describe | <input type="text"/> |

FORECLOSURE MEDIATION

Pre-Mediation Session Report

| | |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If home retained, what was agreed to? | <input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below) |
| If other retention option, please describe | <input style="width: 100%;" type="text"/> |
| If home relinquished, what was agreed to? | <input type="checkbox"/> Short sale <input type="checkbox"/> Deed in Lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent judgment <input type="checkbox"/> Other (indicate below) |
| If other relinquishment option, please describe | <input style="width: 100%;" type="text"/> |
| Did both parties comply with program requirements? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If not, who didn't comply? (check all that apply) | <input type="checkbox"/> Lender <input type="checkbox"/> Homeowner |

**Illinois Foreclosure Mediation Program
HOUSING COUNSELING SESSION SURVEY**

To help us to maintain the quality of the housing counseling program, please answer all of the questions below. Your responses will be kept confidential and will be used to improve our services. No identifying information about you will be released.

Case Number:

Date:

The following questions ask about your experience with the pre-mediation counseling session. Please fill in one circle for each question.

Answer Selection: Correct = ● Incorrect = ☒ ☒ ☒ ☒

| | Not at all | Somewhat | Very much |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| 1. Did the counselor treat you with respect? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 2. Did the counselor treat you fairly? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 3. Do you understand how to work with your lender better than you did before the session? | | | |
| <input type="radio"/> No, I still don't understand. <input type="radio"/> No, because I understood before the session. <input type="radio"/> Yes, somewhat better. <input type="radio"/> Yes, very much better. | | | |
| 4. Do you <u>understand the options</u> you have regarding your home better than you did before the session? | | | |
| <input type="radio"/> No, I still don't understand my options. <input type="radio"/> No, because I understood my options before the session. <input type="radio"/> Yes, somewhat better. <input type="radio"/> Yes, very much better. | | | |
| 4. How satisfied are you with your <u>overall experience</u> with the counseling session(s)? | | | |
| <input type="radio"/> Very unsatisfied <input type="radio"/> Unsatisfied <input type="radio"/> Satisfied <input type="radio"/> Very satisfied | | | |
| 5. Please let us know what you <u>liked</u> about the session(s): | | | |
| 6. Please let us know what you <u>didn't like</u> about the session(s): | | | |

FORECLOSURE MEDIATION PROGRAM

Mediator Report

| | |
|----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Final Report? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Was mediation held? | <input type="checkbox"/> Yes, Mediation Completed <input type="checkbox"/> Yes, Mediation Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Mediation Rescheduled |
| If not held, reason returned to court (check all that apply) | <input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Other (indicate below) |
| If other reason returned to court, describe | <input type="text"/> |
| Reason mediation rescheduled or continued (check all that apply) | <input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner didn't provide sufficient documentation <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below) |
| If other reason rescheduled or continued, describe | <input type="text"/> |
| Date of mediation session | <input type="text"/> mm/dd/yy  |
| Time spent in mediation session (in fractions of hours - e.g., 1.25) | <input type="text"/> |
| Time spent on case outside of mediation session | <input type="text"/> |

FORECLOSURE MEDIATION PROGRAM

Mediator Report

| | |
|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Final Case Outcome | <input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below) |
| If other case outcome, please describe | <input type="text"/> |
| If home retained, what was agreed to? | <input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below) |
| If other retention option, please describe | <input type="text"/> |
| If home relinquished, what was agreed to? | <input type="checkbox"/> Short Sale <input type="checkbox"/> Deed in lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent Judgment <input type="checkbox"/> Other (indicate below) |
| If other relinquishment option, please describe | <input type="text"/> |
| Did both parties comply with program requirements? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If no, who didn't comply (check all that apply) | <input type="checkbox"/> Lender <input type="checkbox"/> Homeowner |

**ILLINOIS FORECLOSURE MEDIATION PROGRAM
EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ✗ ✓ ⊖

1. What is your role in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about none of the issues and concerns that were most important to me.
- ☐ I was able to talk about some of the issues and concerns that were most important to me.
- ☐ I was able to talk about most of the issues and concerns that were most important to me.
- ☐ I was able to talk about all of the issues and concerns that were most important to me.

3. Was the mediator active enough in helping you to work out the issues in the dispute?

- ☐ No
- ☐ Yes

| | Not at all | Somewhat | Very much |
|--------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| 4. How much did the mediator understand what was important to your side? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Did the mediator treat you with respect? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Did the mediator treat you fairly? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

7. Did the mediator push too hard to get you to settle?

- ☐ No
- ☐ Yes

8. To the best of your knowledge, were any of the following true at the time of the mediation? Please fill in the circle for all that apply

- A. ☐ Some information that would have been helpful in the settlement discussions was not available at the mediation.
- B. ☐ When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be.
- C. ☐ The time we had to mediate was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was anger/hostility between the other party and me.
- F. ☐ There was a large power imbalance between the other party and me.

| | Very Unsatisfied | Unsatisfied | Satisfied | Very Satisfied |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 9. How satisfied are you with the <u>outcome</u> of the mediation? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

11. Overall, was the mediation process fair?

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

Please let us know more about your experience:

12. Please let us know what you liked about the mediation:

13. Please let us know what you didn't like about the mediation:

ILLINOIS FORECLOSURE MEDIATION PROGRAM

EVALUATION FOR ATTORNEYS

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ✗ ✓ ⊖

1. Which party did you represent in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Was your side able to talk about the issues and concerns that were most important to you?

- ☐ We were able to talk about **none** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **some** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **most** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **all** of the issues and concerns that were most important to us.

3. Was the mediator active enough in helping the parties work out the issues in the dispute?

- ☐ No
- ☐ Yes

| | Not at all | Somewhat | Very much |
|--------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| 4. How much did the mediator understand what was important to your side? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 5. Did the mediator treat you with respect? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 6. Did the mediator treat your side fairly? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

7. Did the mediator push too hard to get your side to settle?

- ☐ Yes, the mediator pushed too hard

- ☐ No, the mediator did not push too hard

8. To the best of your knowledge, which of the following were true at the time of the mediation?

Please fill in the circle for all that apply

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ The case required a mediator with a different skill set.
- E. ☐ One or more participants did not have authority to settle.
- F. ☐ There was a high level of anger/hostility in the relationship between the parties.
- G. ☐ There was a large power imbalance between the parties.

| | Very Unsatisfied | Unsatisfied | Satisfied | Very Satisfied |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| 9. How satisfied are you with the <u>outcome</u> of the mediation? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| 10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

11. Overall, was the mediation process fair?

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

12. If given the choice, would you use this mediator again?

- ☐ Yes
- ☐ No
- ☐ Possibly

Why or why not?

13. How many mediations have you participated in prior to this mediation?

- ☐ None ☐ 26-50
- ☐ 1-10 ☐ 51-100

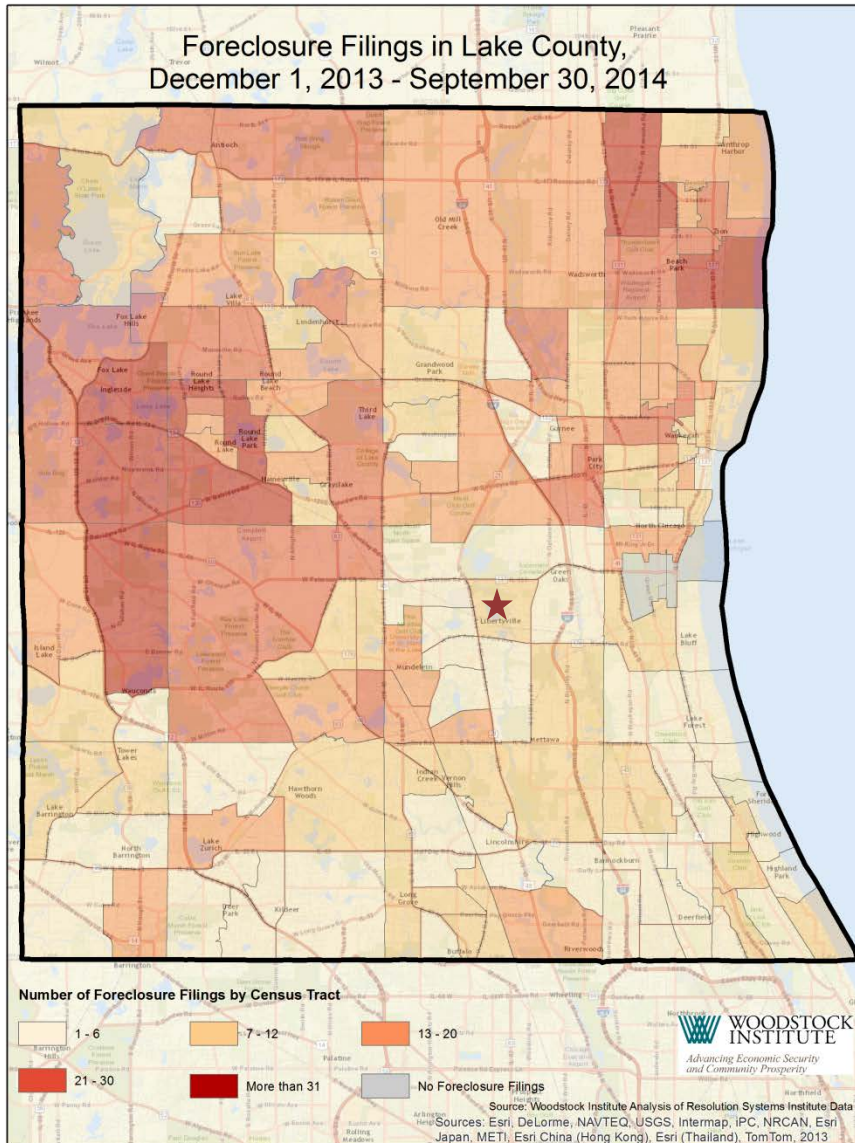
- ☐ 11-25 ☐ More than 100

14. What, if anything, made the mediation effective?

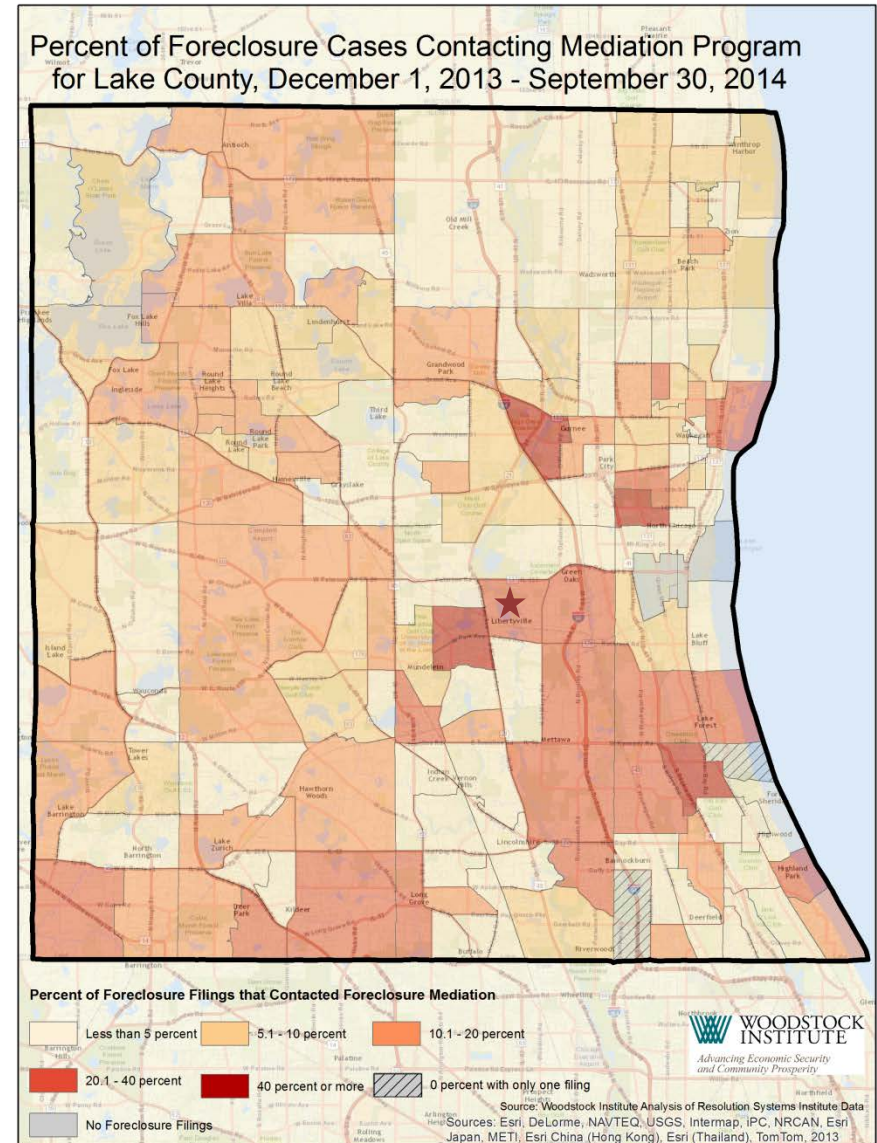
15. What could have improved the mediation?

19TH CIRCUIT

FORECLOSURE FILINGS v. HOMEOWNERS ATTENDING INFORMATIONAL SESSION



★ Location of Housing Counseling Services



ABOUT THE AUTHOR

Jennifer Shack has been Director of Research at Resolution Systems Institute since 2000. In this role, she conducts complex evaluations of court-based mediation programs and researches the effectiveness of mediation in court settings. As part of RSI's efforts to help courts to monitor the functioning of their mediation programs, she has designed data collection systems that are in use around Illinois. This includes the cloud-based case management and monitoring system used by the Attorney General-funded foreclosure mediation programs.

Nationally, Ms. Shack has led a national committee to develop model evaluation forms for civil case mediation programs and serves on the American Bar Association Section of Dispute Resolution Research Task Force. Over the past decade, she has presented on program monitoring and evaluation at numerous conferences.

Ms. Shack's evaluations include a comprehensive evaluation of the Child Protection Mediation Program in Cook County, Illinois, and evaluations of the mediation programs in the U.S. District Court for the Northern District of Illinois. Ms. Shack has also written a number of articles, including "Mediation in Courts Can Bring Gains, But Under What Conditions?" in *Dispute Resolution Magazine*, Winter 2004, and the co-authored, "Judicial Settlement Databases: Development and Uses," *Judges' Journal*, Winter 2004. Most recently, she co-authored two articles on foreclosure mediation: "Foreclosure Dispute Resolution Programs: Do They Work?" in *Probate and Property*, December 2013, and "A (Mortgage) Crisis in Communication: Foreclosure Dispute Resolution as Effective Response?" in *Arkansas Law Review*, Spring 2013. Ms. Shack also discusses issues related to research on issues related to court ADR on RSI's blog, *Just Court ADR*.