

SIX PROGRAMS, SIX MODELS:

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

20TH JUDICIAL CIRCUIT EXTRACT

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RESOLUTION SYSTEMS INSTITUTE



RSI

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RESOLUTION SYSTEMS INSTITUTE

This evaluation was conducted by Resolution Systems Institute. Formed in 1995, Chicago-based Resolution Systems Institute (RSI) 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.

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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		
	20th 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.

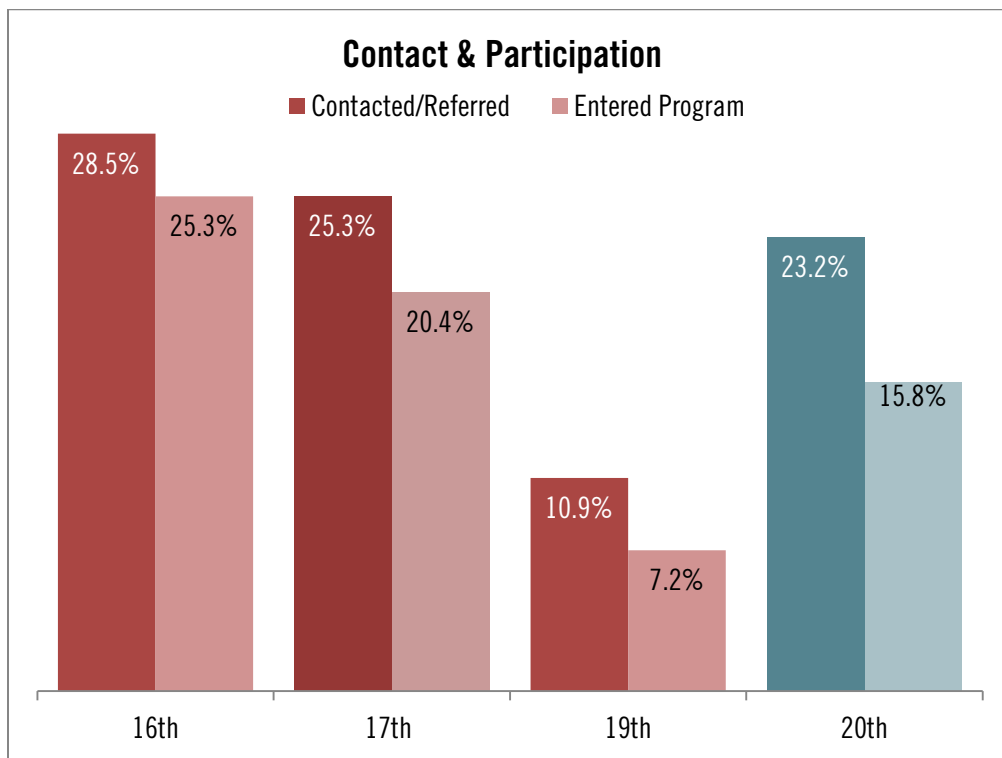
PARTICIPATION

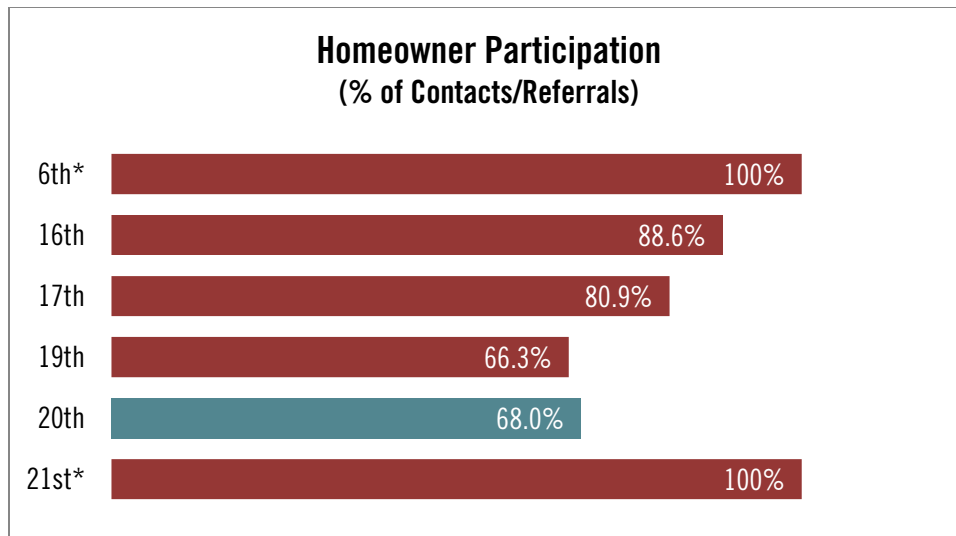
Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, 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.

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 ⇒

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 style="width: 100%;" 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 style="width: 100%;" 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 style="width: 100%;" 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?

5. Did the mediator treat you with respect?

6. Did the mediator treat you fairly?

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
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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
- 1-10
- 26-50
- 51-100

11-25

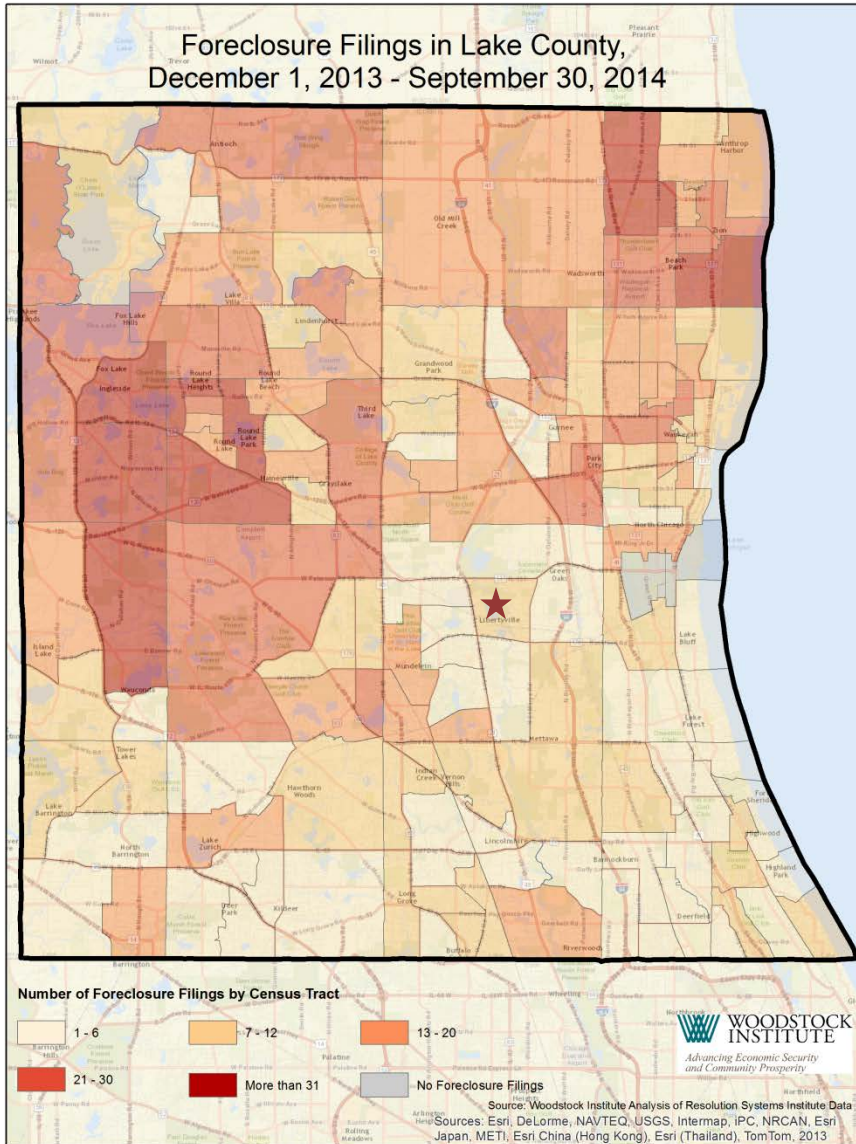
More than 100

14. What, if anything, made the mediation effective?

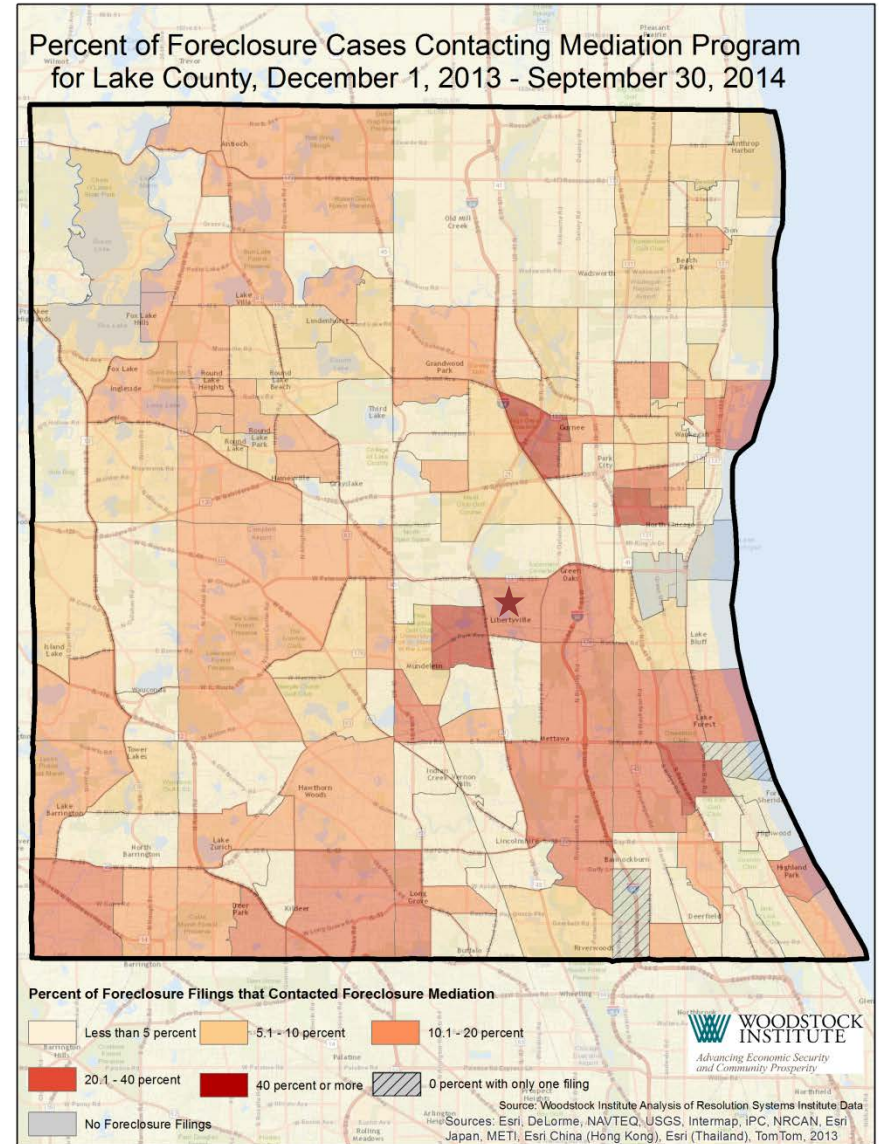
15. What could have improved the mediation?

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*.