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Spring 2019

New Services for Families in the DC Superior Court

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Recommended Citation

Applegate, Amy; Adams, Jeannie M.; Beck, Connie J.; Holtzworth-Munroe, Amy; and Rossi, Fernanda S., "New Services for Families in the DC Superior Court" (2019). *Articles by Maurer Faculty*. 2879.

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New Services for Families in the DC Superior Court

By Jeannie M. Adams, Amy G. Applegate, Connie J. Beck, Amy Holtzworth-Munroe, and Fernanda S. Rossi

Until recently, because of concerns about safety and parties' abilities to make good decisions in cases with a history of high intimate partner violence or abuse (IPV/A), in the District of Columbia's Superior Court such cases were screened out of mediation and sent back to the family court. But two big program additions — videoconferencing and shuttle mediation — have allowed parties in these cases to consider mediation.

The Multi-Door Dispute Resolution Division of the DC Superior Court (Multi-Door) implemented this change after several years of preparation: its administrators added safety measures, provided in-depth training for staff and mediators, and consulted with experts to design a research study to compare videoconference, shuttle mediation, and the prior practice of returning these cases to court.

Service expansion

Families coming to the DC Superior Court with issues related to child custody, child support, parenting time, or divorce are likely to be referred to

mediation at Multi-Door, where staff members use a comprehensive intake process, including a thorough screening for abuse, violence, and coercive controlling behaviors that are indicative of IPV/A. Most families are referred to traditional joint mediation. For the safety of the families and mediation staff, however, joint mediation is not an option under Multi-Door policy for parties reporting high levels of IPV/A during the intake process. There are now two dispute resolution options for these families: videoconference mediation, which allows the parties to hear and see each other and the mediator on computer screens but still gives the mediator the opportunity to meet via video or in person separately with the parties; and shuttle mediation, in which parties remain in separate rooms and the mediator moves back and forth between them. In both videoconference and shuttle mediation, the parties are never in the same room. In both forms of mediation, the topics under discussion are child support, custody, parenting time, divorce, and any other related matters that the parties bring to

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[T]he researchers have studied three processes: shuttle mediation, videoconference mediation, and the return of cases to court (where the parties receive no mediation services).

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the table. The subject of mediation is never whether the domestic abuse or violence actually occurred.

Multi-Door staff dispute resolution professionals work with the families all through the process, from intake to agreement (if one is reached), conducting separate intake sessions, determining exactly what form of mediation can be a safe option, informing people what to expect from the process, and scheduling the first mediation session. The staff also works with the mediator to help with paperwork and scheduling, among other responsibilities. If an agreement is reached, the mediator drafts it. With or without agreement, at the end of mediation, the parties must return to court to obtain court approval of their agreement or schedule their next hearing.

How did the program get here?

Nearly a decade ago, Multi-Door staff started to question its policy of sending families with a history of high IPV/A back to family court. Several basic assumptions were questioned: (1) Are survivors of IPV/A incapable of negotiating? (2) Does mediation result in one party coercing another into an agreement that is not in their or their children's best interests? (3) Is mediation for IPV/A survivors less safe than court? Program administrators and staff sought the advice of experts in the field of domestic violence, which led to a partnership with researchers from Indiana University and the University of Arizona (these researchers are co-authors of this article). Through this partnership, Multi-Door has served as the site of a multi-year study of IPV/A and custody decisions in family mediation.

With funding from a grant from the National Institute for Justice, the researchers have studied three processes: shuttle mediation, videoconference mediation, and the return of cases to court (where the parties receive no mediation services). Participation in the study has been voluntary for both parties and mediators; parties have understood that by agreeing to participate in the study, they might be offered shuttle or videoconferencing mediation. No party reporting IPV/A was required to mediate. Recruitment for the study ended in 2017, and the results and analysis will be completed and submitted for possible publication later this year.¹

“ Some mediators have reported that once in session, they see little difference between IPV/A cases and cases where intimate partner violence or abuse is not present: mediation gives parties the opportunity to resolve problems privately and with dignity. ”

Safety and security

Multi-Door's basic objective is to provide families with mediation services in a safe environment where parties are supported by professional court staff and mediators and have the opportunity to create agreements that are safe, workable, and in interests of the parties and their children. When a family arrives with a civil protection order in place, if — and only if — both parties agree, the protection order can be modified by a judge to allow the mediation to take place. Multi-Door staff always encourage parties to identify and perhaps have with them a support person, someone they can consult with and lean on during the mediation process.

Multi-Door has long had significant security for all its mediations, including court security officers and buttons in every mediation room to summon help. New safety protocols for shuttle and videoconference mediations include staggered arrival and departure times, staff escorts to and from mediation rooms and the program building, and different rooms in separate, secured suites. Staff members and mediators have all received specialized and required training in assessment, screening measures such as MASIC, (which stands for *The Mediator's Assessment of Safety Issues and Concerns*)² family dynamics and IPV/A, and the mechanics of successful videoconference and shuttle mediations.

Anecdotal evidence

Although the study data is still being analyzed, mediators, staff, and participants have all provided significant feedback. Some parties in IPV/A cases, including those with civil protection orders, have

expressed a preference to be in the same room (though this is not possible in either form of mediation). Others have preferred shuttle mediation because they said it gave them time to think through proposals without interruption. Mediators have reported that although the technology can be challenging, with loss of connection during the process, videoconference mediation can be more productive because parties can see and hear each other and convey feelings directly. Mediators have noted that parties often seem more willing to talk if they know that the other party is in another room, as is the case in both video conference and shuttle mediation. Some mediators have reported that once in session, they see little difference between IPV/A cases and cases where intimate partner violence or abuse is not present: mediation gives parties the opportunity to resolve problems privately and with dignity.

Multi-Door's staff has debated whether to continue to offer videoconference and shuttle mediation once the study has finished; based on preliminary favorable immediate outcomes to date,³ the program officials have decided to do so. They continue to evaluate these new services and plan to use the study's data to guide decisions.

Cautionary words

This expansion of services helps Multi-Door work toward its goal of providing access to justice for all. But any organization considering offering mediation

in IPV/A cases must take care, avoiding mandatory mediation, creating effective safety protocols for everyone involved, conducting comprehensive training for mediators and staff, and consulting with judicial officers and local domestic violence activists and experts before implementing any mediation program for families reporting high levels of IPV/A. As one Multi-Door Dispute Resolution Division staff member says, "It takes a highly trained team to make this work." ■

Endnotes

1 This study was supported by Award No. 2013-VA-CX-0044 of the National Institute of Justice, Office of Justice Programs, US Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect those of the Department of Justice.

2 The first version of the MASIC appeared in Amy Holtzworth-Munroe et. al, *The Mediator's Assessment of Safety Issues and Concerns (MASIC): A Screening Interview for Intimate Partner Violence and Abuse*, 48 FAM. CT. REV. 4 at 646-662 (2010).

3 Immediate outcomes were collected at the conclusion of the mediation for cases referred to either form of mediation and the resolution of the court case for cases referred back to court. Analyses of study data are ongoing and final results will be submitted to peer-reviewed journals for possible publication. At that time, the reader is welcome to request updated, final, published study findings.



Jeannie M. Adams is the Director of the Multi-Door Dispute Resolution Division at the Superior Court of the District of Columbia. As Director, she oversees staff members and mediators and is responsible for the design and implementation of alternative dispute resolution programs that support the civil, small claims, landlord/tenant, family, tax and probate courts. She can be reached at Jeannie.Adams@dsc.gov. **Amy G. Applegate** is a Clinical Professor of Law at the Indiana University Maurer School of Law in Bloomington, where she teaches mediation and directs a mediation clinic through which law students provide mediation services to indigent and low-income litigants in disputed custody, parenting-time, and other family law cases. She can be reached at aga@indiana.edu. **Connie J. Beck** is an Associate Professor in the psychology department of the University of Arizona. For the past 25 years she has researched short- and long-term outcomes for divorcing couples experiencing intimate partner violence and mediating their disputes. She can be reached at Beck@email.arizona.edu. **Amy Holtzworth-Munroe** is a Professor of psychology in the psychological and brain sciences department at Indiana University-Bloomington. She has conducted research on intimate partner violence since the early 1980s and for more than 10 years has studied family law interventions for separating and divorcing parents, including mediation, parent education programs, and IPV screening methods. She can be reached at holtzwor@indiana.edu. **Fernanda S. Rossi** is a postdoctoral research fellow at the Veterans Affairs Palo Alto Health Care System's Center for Innovation to Implementation and the Stanford University Center for Health Policy and Center for Primary Care and Outcomes Research. She can be reached at fsrossi@stanford.edu