



**Evaluation of the
Family Mediation Referral Project
Summative Evaluation Report**

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Prepared for:

Legal Services Society of British Columbia

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Executive summary

This report presents the summative evaluation findings for the Legal Services Society (LSS) of British Columbia's Family Mediation Referral (MED REF) pilot project. MED REF is a province-wide service that refers low-income people to family mediation services, and provides six hours of LSS funding for pre-mediation meetings and mediation sessions. The project focusses on clients who are financially eligible, willing to mediate, and have legal issues that are ineligible for referral to legal representation — including property, debt, asset division, and spousal support — that could be resolved through mediation.

The evaluation looked at the implementation and delivery of the MED REF pilot project and its success in achieving its intended outcomes during its first year and a half of operation. This report covers the pilot project's activities from late November 2014 to April 4, 2016. The lines of evidence included a review of key documents and the project database; interviews with key informants (LSS personnel and external stakeholders); interviews with clients whose matters were referred to the mediation project, and a systems efficiencies analysis that considered the potential impact of MED REF to avoid court costs through earlier and more efficient resolution of cases

Conclusions on implementation and delivery of MED REF

The summative evaluation led to several conclusions regarding the implementation of the MED REF pilot project, which are outlined below.

Desire for greater communication with LSS. External key informants reported there has been little communication with LSS since implementing the in-house mediation administrator position in mid-2015. Mediators would like more communication with LSS so they can better understand how the project's new processes are working and share challenges they have encountered during implementation.

Low volume of clients. Many key informants commented on the low volume of clients that have been referred to the project and have participated in mediation. Potential causes for the lower than expected volumes of clients include clients being drawn mainly from LSS's general intake line, a lack of project promotion, and the innate challenges of voluntary mediation programs.

Lack of support for independent legal advice (ILA) and agreement drafting. The project lacks adequate support for ILA when reviewing agreements related to property and agreement drafting. Clients utilizing the program are typically those who cannot afford the cost of a private lawyer but do not qualify for a full representation contract.

Conclusions on early indications of outcomes

The outcome evaluation of MED REF occurred at early stages in the pilot's operations. Consequently, the evaluation findings should be read with the caveat that the pilot project is still in its early stages, and evidence of achievement of outcomes is preliminary and based on the best available evidence. Conclusions for outcomes are summarized briefly below.

- ▶ LSS intake continues to be the main source of referrals to the project. The evaluation cannot determine the degree to which external organizations are aware of MED REF and are making referrals to the project.
- ▶ There is insufficient data to make a confident statement about client satisfaction.
- ▶ Referrals to mediation are timely, with most clients entering the project prior to court proceedings or a written agreement. Clients find the application process to be quick and easy.
- ▶ The small number of cases that have proceeded to mediation suggests MED REF made a minimal contribution to increasing access to affordable mediation. However, results among cases that completed the mediation process were positive, suggesting the project's mediation services have provided an effective means of settling family law issues in cases where both parties are amenable to cooperative approaches to resolving their family law issues.
- ▶ The project's voluntary mediation model presents a challenge for achieving internal cost efficiency and substantial impact on system efficiencies. The project's low volume of intake combined with the fact that it requires four to five client screenings to produce a single case for mediation presents a considerable challenge if the project desires to increase its contribution to system efficiencies. It remains unclear whether the project could substantially increase the number of completed mediations without increasing mediation administration costs.

Recommendations to further enhance MED REF

The summative evaluation provided several recommendations aimed at further enhancing the operation of MED REF.

Recommendation 1: Implement more regular communications with roster mediators and Mediate BC, which will give mediators an opportunity to communicate challenges, ask questions, share project learnings, and help stimulate mediators' sense of belonging and commitment to the project.

Recommendation 2: Launch a series of targeted awareness campaigns in select communities to raise awareness around the benefits of mediation and the availability of MED REF services. Without improvement in project intake, LSS should consider whether MED REF has sufficient value to continue operating.

Recommendation 3: Improve integration with LSS's other services, including the expanded LawLINE and Expanded Duty Counsel, to ensure MED REF clients have adequate and easily accessible brief advice services.

Recommendation 4: Make available short legal service contracts to MED REF clients who require ILA during and after their mediation or who consider working with Mediate BC to ensure MED REF is well-integrated with their Family Unbundled Legal Services Project.

Recommendation 5: Implement an electronic (online or email-based) version of Mediate BC's client feedback survey and track results. Ensure mediators are aware of the feedback form and are providing the form to clients.

1.0 Introduction

This report presents the summative evaluation findings for the Legal Services Society (LSS) of British Columbia's Family Mediation Referral (MED REF) pilot project. This evaluation is one of five evaluations of pilot projects implemented under the Justice Innovation and Transformation Initiatives (JITI) that is being conducted.

The MED REF evaluation involved a process evaluation, with a focus on implementation and early progress toward achieving outcomes, and the current summative evaluation, which focusses on outcomes achieved. This report presents the findings of the summative evaluation and covers the pilot project's activities from November 26, 2014 to April 4, 2016.

Below describes the methods used for the summative evaluation component.

2.0 Methodology

The summative evaluation consists of four lines of evidence: a document and data review, interviews with key informants (LSS staff and external collaborators), interviews with clients, and a system efficiency analysis. A MED REF Project Working Group (WG) — comprised of representatives from LSS, British Columbia Ministry of Justice and Attorney General (JAG), and Mediate BC — is guiding the evaluation process. PRA held consultations with the WG to refine the key evaluation documents that would guide the evaluation: the logic model and evaluation matrix, which are in Appendices A and B, respectively. The data collection instruments are included in Appendix C.

2.1 Document and data review

PRA reviewed relevant documents produced by the pilot project, including the project manual and charter, descriptions and diagrams of the MED REF model, and forms used by the pilot to collect information on its clients, the types of assistance provided, and project financial information. The data review for the summative evaluation relies on available data in the pilot project database as of April 4, 2016.

The data review for the summative evaluation also involved data from the Court Services Branch (CSB). A series of meetings were held with CSB data analysts to discuss data availability for providing contextual information, as well as for contributing to the efficiency analysis. The resulting data request included the number of initiating and subsequent family applications filed at provincial courts or Supreme Court between January 1, 2012 and October 31, 2015 throughout the province. As approximately three months are required for court data to stabilize, October 31, 2015 was the latest time period for which data could be provided.

2.2 Key informant interviews¹

The process evaluation includes interviews with key informants to obtain their perspectives on pilot project implementation and evidence of outcomes. All interviews were conducted by telephone. Two interviews were conducted with key informants from LSS, including the project lead and the mediation administrator. Eight interviews were conducted with external key informants, including the former executive director of Mediate BC (MBC) who was involved during the earlier phases of the project and several one-on-one and group interviews involving nine roster mediators who conducted mediations under the project. Key informant interviews were conducted between February and April 2015.

2.3 Client interviews

To obtain feedback from MED REF clients, PRA conducted individual telephone interviews of about 17 minutes each with clients whose matters were referred to mediation. Interviews focussed on the clients' experience and satisfaction with MED REF services and outcomes following the mediation.

The interview sample was based on all clients who completed or ended mediation as of April 6, 2016. The sample was also screened to exclude clients who were previously interviewed or opted out of an interview during the process evaluation. The resulting sample included 33 clients, and resulted in 11 interviews. Of these clients, five completed their mediation and six ended their mediations prior to completion.

2.4 System efficiency analysis

The system efficiency analysis considers the potential of MED REF to achieve system efficiency by estimating the potential impact of the project to avoid court costs through the earlier and more efficient resolution of cases. Early resolution can be demonstrated, for example, by the following:

- ▶ an increase in cases that reach agreement without court involvement
- ▶ a reduction in the number of court appearances and/or potentially more effective court appearances and therefore reduced use of court time during appearances, which should both result in reduced court hours
- ▶ a reduction in the time to resolution
- ▶ an increase in cases resolved without a trial

Court activity data provided by CSB is used to develop the profile in Section 4.0 and was used, along with the project's administrative data, to calculate average court costs per hour in an effort to provide estimates around potential cost avoidance as a result of reduction in court hours and court trials. Hourly court costs include the cost for a court clerk, deputy sheriff, registry staff, and provincial court judge for provincial court, as well as a court clerk, registry staff, and Supreme Court Justice for Supreme Court.

¹ The report generally refers to interviewees as key informants. "Internal key informants" refers to interviewees from LSS, while "external key informants" refers to project collaborators or partners outside of LSS.

If the pilot is able to achieve its intended objectives (described in Section 3.0 below), then such reductions in court hours might be expected to occur through the diversion of cases from the court system altogether (e.g., by MED REF helping clients resolve their family law issues out of court), or through clients' making better use of their court appearances (e.g., by MED REF narrowing the number of issues to be resolved) and therefore requiring fewer and shorter appearances, fewer adjournments, and fewer trials.

It should be noted that it is not possible to make any conclusive statements on efficiencies gained or costs avoided, as no data are available on the extent to which the pilot has resulted in such impacts, which includes the diversion of cases from the court system or reduced appearances, adjournments, trials, or shorter court appearances. The analysis uses statistics on family court cases from all provincial and Supreme courts in British Columbia. Estimates of potential future efficiencies are based on a hypothetical scale of success in reducing the number of court hours and trials, ranging from 10% to 50%.

2.5 Evaluation limitations

There are several methodological limitations that affect the evaluation.

- ▶ Both the process and outcome evaluations occurred at early stages of the pilot project. Typically, only project implementation and its success toward achieving immediate outcomes would be explored within one year of a project's inception. Evidence related to the achievement of intermediate and long-term outcomes is usually not available for at least two to three years. Consequently, the evaluation findings should be read with the caveat that the pilot project is still in its very early stages, and evidence of the achievement of outcomes is preliminary and based on the best available evidence.
- ▶ Given the early time frame of the evaluation as well as that family law matters often require considerable time to resolve, no pilot or court data were available to make any assessments on whether the pilot has had a measurable impact on the early resolution of clients' family law matters and if they were resolved without the need for a court trial. LSS and roster mediators do not have ongoing interactions with clients once they have completed their services and, therefore, the pilot cannot track client outcomes past the time of their last meeting. Furthermore, the CSB data provided for the evaluation was intended to be used to illustrate the average characteristics of family law matters handled in BC courts. These averages were helpful in the system efficiency analysis for estimating potential cost avoidance, if various scenarios occurred as a result of the pilot. However, no conclusions can be made as to what extent these scenarios are achievable within the current project.
- ▶ Certain limitations also exist with the information that could be obtained from the CSB data, due to the complexity and volume of court data, and how various court activities are accounted for on the Civil Electronic Information System (CEIS). For example, a number of adjournments could only be provided as adjournments that occurred prior to the scheduled appearance and not those that occurred on the day of a scheduled appearance.

3.0 Brief overview of MED REF

This section provides an overview of MED REF to provide further context for the summative evaluation report.

MED REF is a province-wide service that refers low-income people to family mediation services and provides six hours of LSS funding for pre-mediation meetings and mediation sessions. The project focusses on clients who are financially eligible, who are willing to mediate, and who have legal issues — including property, debt, asset division, and spousal support — that are ineligible for legal representation contract, and that could be resolved through mediation.

The project is delivered by LSS in collaboration with Mediate BC. Under the initial project design, Mediate BC was responsible for assessing whether cases were suitable for mediation, calculating a sliding scale rate, and arranging for a private mediator through Mediate BC's family roster. In mid-2015, these tasks were moved internally to LSS.

The project lists the following as its objectives/outcomes:

- ▶ increasing access to high-quality mediation services for people with low incomes
- ▶ ensuring that participants are satisfied with the process and the outcomes
- ▶ enabling participants to resolve their family issues without going to court
- ▶ helping clients to achieve timely and just resolutions to family disputes in a manner consistent with the best interests of children (if any)
- ▶ ensuring that the criteria for service is clear and consistent
- ▶ ensuring that clients are guided to the right service at the right time
- ▶ ensuring that clients are guided to the service with as few steps as possible
- ▶ ensuring that service will be complementary and not duplicative²

² LSS, "Justice Innovation Initiatives - 04 MD REF - Mediation Referrals Project Charter - February 27, 2015."

As described below, the project is delivered through several stages, each involving different staff at LSS. The following describes some of the key stages or operational aspects of the project since its launch, taking into consideration the model revisions introduced in mid-2015:

- ▶ **Intake.** The process begins when a potential client contacts LSS intake (through the LSS call centre in Vancouver, the regional centre in Terrace, or local agent assistants), and describes their family law situation. If the person is financially eligible for legal representation, but their issues do not fall within LSS coverage guidelines, the intake workers provide a general description of the mediation process and ask whether the individual is interested in trying mediation. If the client is interested, the intake worker determines whether the client is eligible for six hours of LSS-funded mediation under the project. Eligible individuals are referred to LSS's mediation administrator.
- ▶ **Mediation administrator.** The mediation administrator is responsible for interviewing and screening potential mediation clients for appropriateness. The mediation administrator is responsible for contacting the applicant; explaining the mediation process (what it is and is not), the availability of six hours of LSS-funded mediation, and the sliding scale; and for determining the client's debts and assets. Under the revised model, both parties are considered clients. If Client 1 (i.e., the party who initially contacted LSS) is interested and is deemed a good candidate for mediation, Client 1 is responsible for contacting the other party (i.e., Client 2) to inform them of the option to mediate. Then Client 2 is responsible for contacting the mediation administrator to learn more about the program and to undergo an interview, initial screening, and assessment of debts and assets.

Once Client 1 and Client 2 are accepted into the project, the mediation administrator provides the clients with a list of three potential mediators from the project's roster of mediators. In selecting mediators for the list, the administrator primarily considers the clients' geographic location, but also considers clients' preferences for a male or female mediator or specific cultural backgrounds or language. Once the clients select a mediator, the mediation administrator's involvement with the clients is complete.

Beyond these duties, the mediation administrator is also responsible for maintaining client records in the pilot project database, which includes creating the client record, updating the client record when parties decide whether or not to pursue mediation, and entering case summary information once the mediation is completed or otherwise ends.

- ▶ **Roster family mediators.** Once the clients select a mediator, a contract is issued to the chosen mediator. The mediator contacts each party to arrange for separate pre-mediation meetings to ensure participants understand and are ready for the mediation process. If appropriate, joint, shuttle, or distance mediation sessions are held to resolve the identified family law issues. Once mediation is completed or otherwise ends, the mediator provides LSS with a completed case summary form and bills for their services. There are currently 31 mediators who have agreed to provide mediation services for six hours at the LSS rate.

The logic diagram in Appendix A provides further information on the flow of program activities, outputs, and intended outcomes of the program.

3.1 Client and project profile

Table 1 provides an overview of MED REF intake since the pilot’s launch in November 2014 to April 4, 2016. It is important to note that the table below includes Client 1 — that is, the individual who went through the LSS intake process and was referred to the mediation administrator; demographics for Client 2 (the other party) are not included in the analysis. Of the 202 clients referred to the project since the pilot’s launch:

- ▶ the vast majority of clients (83%) are female;
- ▶ over half (59%) are 41 years of age or older, while a quarter (27%) are in their thirties;
- ▶ most (80%) reported their marital status as separated or single; and
- ▶ clients from urban centres often came from Vancouver (8%), Kelowna (7%), Surrey and Victoria (both 6%), and Kamloops and Vernon (both 5%); many of the remaining clients (63%) came from numerous (60) other cities and or smaller communities.

Table 1: Client profile				
	All clients (n=202)		Clients that proceeded to mediation (n=53)	
	#	%	#	%
Gender				
Male	34	17%	5	9%
Female	168	83%	48	91%
Age				
18 to 30	26	13%	2	4%
31 to 40	55	27%	14	26%
41 to 50	65	32%	22	42%
Over 50	55	27%	15	28%
Not identified	1	<1%	-	-
Marital status				
Separated/single	161	80%	40	75%
Married	27	13%	8	15%
Common-law	7	4%	5	9%
Divorced	7	4%	-	-
Note: Percentage may not equal 100% due to rounding.				

Half of the 31 available mediators (n=16 or 52%) have received contracts under the project. On average, each of these 16 mediators has been assigned three mediations each.³ Among the 202 clients referred to the mediation administrator, over half have not proceeded to mediation (58%), approximately 16% are waiting for a decision on whether to proceed with mediation, and 26% have proceeded to mediation. Of these cases, 42 have been completed or ended, while another 11 remained open as of April 4, 2016.

Intake		
	#	%
Total legal aid offices	35	
Total legal aid offices referring to MED REF	27 (77%)	
Total intake	103	
In person	116	57%
Phone	86	43%
Mediators		
	#	%
Total mediators participating in MED REF	31	
Mediators who have received a contract under MED REF	16 (52%)	
Average number of cases per mediator	3	
Case status		
	#	%
Proceeded to mediation, file closed	42	21%
Proceeded to mediation, file open	11	5%
Pending decision of parties to participate	32	16%
Did not proceed to mediation	117	58%
Total	202	100%

Half of the clients identified property division (56%) and about 4 in 10 clients (39%) identified parenting issues⁴. Less commonly identified issues included debt division, support arrears, and denial of parenting time. Looking at legal issues addressed among clients who completed or ended mediation, the majority involved property division (79%) and spousal support (71%), while many also involved child support (48%) or debt division (38%).

	Legal issues identified (n=202)		Legal issues addressed (n=42)	
	#	%	#	%
Property division	114	56%	33	79%
Spousal support	15	7%	30	71%
Child support	22	11%	20	48%
Debt division	9	4%	16	38%
Denial of parenting time	2	1%	11	26%
Parenting issues	78	39%	9	21%
Support arrears	5	2%	5	12%
Other	-	-	5	12%
No data	38	19%	6	14%

Note: Clients may have multiple issues identified. Totals will sum to more than 100%.

³ LSS notes that of the mediators who have not received contracts, many are limited in that they are not qualified by Mediate BC to mediate alone, or they do not mediate property/debt issues.

⁴ “Parenting issues” includes custody and access under the *Divorce Act* and guardianship, parenting time, allocation of parental responsibilities and contact under the *Family Law Act*.

3.2 Cost of MED REF

The table below provides the project costs for fiscal years 2014–15 and 2015–16. During 2014–2015, costs totalled about \$32,000 and were associated with training and initial implementation activities. Year 2 of the project (2015–16) corresponds to the full implementation of MED REF, which cost about \$76,404. Most of these costs were to cover mediation contracts, the former mediation coordinator, and the current mediation administrator. Notably, during Year 2 of the project, about 75% of the project costs were allocated to administering the project, while the remainder of the budget was allocated to mediations.

Item		Year 1 2014–15 Actual	Year 2 2015–16 Actual
Roster mediators		\$578	\$18,901
Mediation administrator (LSS, 0.6)		-	\$17,633
Mediation coordinator (MBC, 0.6)		\$22,550	\$18,792
Assign sliding scale (MBC)		-	\$461
Strategic policy oversight (MBC)		\$4,698	\$5,125
Subtotal for MED REF expenses		\$27,826	\$60,912
In-kind: Overhead on mediator salaries		\$4,174	\$6,492
In-kind: Value of office space		-	\$9,000
Total		\$32,000	\$76,404
Approach 1	Cost per application processed (\$57,042/126)	-	\$453
	Cost per case that proceeded to mediation ((\$57,042/126)+(\$19,362/28))	-	\$1,144
Approach 2	Cost per case that proceeded to mediation (\$76,404/28)	-	\$2,729

Sources: Calculations were made based on pilot database and LSS data.

The MED REF project has two main stages to which costs can be assigned. The first stage involves the activities undertaken by the mediation administrator before a case is referred to mediation and the second stage is the mediation itself. The evaluation presents two approaches to understanding the cost per unit⁵ for MED REF.

- ▶ **Approach 1:** This approach considers a separate cost per unit for each case that went through the mediation administrator, whether or not they proceeded to mediation. Cases that do not proceed to mediation have a cost per unit of about \$453, while cases that proceeded to mediation have a cost per unit of about \$1,144. This approach considers that out of every five cases screened for mediation during 2015–16, there was one that was suitable and willing to proceed to mediation. This is the project’s “conversion rate” (which during 2015–16 was about 22%, or 28 out of 126 applications), which is the proportion of clients that proceed to mediation out of all clients processed by the mediation administrator. While this approach more closely reflects the real world operation of the project, it also highlights the reality of a mediation referral project,⁶ where not all parties are suitable or willing to take part in mediation.
- ▶ **Approach 2:** In this approach, the full program costs are allocated to the clients that actually proceeded to mediation, which in 2015–16 totalled 28 cases. Given the small volume of cases that proceed to mediation during this period, the cost per unit is considerably higher at \$2,729.

⁵ The MED REF cost per unit analysis is not intended for comparison to costs of other LSS services for similar family law matters, such as the regular family duty counsel service, LawLINE, or representation contracts. The unit cost analysis includes costs for LSS overhead, while tariff rates do not include similar LSS overhead costs (e.g., application processing, invoice processing). For the same reason, overall pilot costs are not intended for direct comparison with costs avoided through system efficiencies, which don’t include costs avoided for comparable overhead (including facilities, out-of-court activities, etc.)

⁶ [Mediate BC’s Distance Family Mediation Project](#) had a conversion rate ranging from 30% to 36%, while the [Child Support Eligibility Mediation Pilot Project](#) — which also struggled with uptake — had a conversion rate of about 14%.

4.0 Profile of general family law cases at all court locations in British Columbia

To give some context of the environment in which MED REF is operating, this section provides a brief profile of family law cases at all court locations in BC, including provincial and Supreme courts. As shown in the table below, courts in BC handled over 40,000 total applications annually for 2012 to 2014. A total of 35,807 applications were dealt with in 2015 up to October 31, which if extrapolated to the end of the 2015 would also be just over 40,000 applications. Subsequent applications to provincial court account for the majority of total applications, ranging from 23,917 to 26,344 between 2012 and 2014. Annual initiating applications are considerably higher in Supreme Court than provincial court.

Year	Provincial court		Supreme Court	Total applications
	Initiating applications	Subsequent applications*	Initiating applications	
2012	8,484	26,344	12,171	46,999
2013	7,395	23,917	11,912	43,224
2014	7,609	24,286	11,304	43,199
2015 (up to October 31)	6,199	19,736	9,872	35,807

Source: Data provided by Court Services Branch.
 *Includes all subsequent applications filed annually and may be related to applications initiated in earlier years.

Family law cases can be protracted and lengthy with respect to the family’s involvement with the court system. In order to make some considerations of the characteristics of family law cases that are dealt with at courts throughout the province, after consultation with CSB it was determined that a data extract covering 2012 initiating and subsequent applications and how these proceeded through the court system (i.e., the first row in the table above) would provide contextual information on the use of family law courts in BC and key data for the system efficiency analysis.

Table 6 below illustrates the number of subsequent applications that can be generated from initiating applications at provincial courts throughout the province. From the 7,328 initiating applications for 2012, another 13,393 subsequent applications were filed up to October 31, 2015, with 47% (6,359) of these filed in 2012 and 25% (3,321) in 2013. On average, 1.6 subsequent applications were filed for every initiating application.

Year	Number	
2012 initiating applications	7,328	
Subsequent applications from the initiating applications	Number	Percent of total
2012	6,359	47%
2013	3,321	25%
2014	2,243	17%
2015 (up to October 31)	1,470	11%
Total	13,393	100%
Average subsequent applications per case	1.6	

Source: Data provided by Court Services Branch.

As shown in Table 7 below, the most common issue in provincial court for initiating applications was for custody/guardianship (108%), followed by child support (48%). Issues for subsequent applications varied, with 40% being related to custody/guardianship, and about a quarter each being related to access/contact/parenting time, parenting issues, and child support. The most common issues for initiating applications in Supreme Court were divorce (79%), followed by parenting issues (23%) and property division/debt division (17%).

Issue	Provincial court			Supreme Court initiating (n=12,171)
	Initiating (n=7,325)	Subsequent (n=41,896)	All (n=49,221)	
Access/contact/parenting time	20%	24%	24%	2%
Child support	48%	23%	27%	15%
Custody/guardianship	108%	40%	50%	5%
Divorce	-	-	-	79%
Maintenance enforcement	<1%	<1%	<1%	<1%
Parenting issues	2%	24%	21%	23%
Possession of home	<1%	<1%	<1%	3%
Property division/debt division	<1%	-	<1%	17%
Protection order	11%	7%	8%	3%
Relocation	5%	7%	7%	1%
Spousal support	11%	3%	4%	13%
Support arrears	<1%	4%	3%	<1%
Transfer a child to non-parent	<1%	<1%	<1%	<1%
Other*	31%	69%	64%	29%

Source: Data provided by Court Services Branch.
 Note: Each case may have more than one issue, so summing the number of cases when represented by issue will exceed the total number of cases.
 *Other issues are mainly administrative in nature, such as to shorten time to serve a notice or document, to transfer a file to another court registry, or to produce financial statements or other documents.

From Table 8, each initiating and subsequent application in provincial court had an average of 1.4 and 2.3 scheduled appearances, respectively, as well as 0.17 and 0.31 adjournments; however, the latter only includes those adjournments that occurred prior to the scheduled appearance. Supreme Court initiating applications had an average of 1.3 appearances and 0.38 adjournments. There was an average of 120 days between filing an application and the first appearance for initiating applications, and an average of 59 days for subsequent applications for provincial court. Supreme Court was considerably longer, with an average of 165 days to the first appearance. The average court time required per application and including all appearances associated with an application was close to 1.0 hours for both initiating and subsequent applications for provincial court and just over 3.0 hours for Supreme Court. Considering each initiating application in provincial court has an average of 1.6 subsequent applications, each case requires about 3.5 hours of total court time.

Table 8: Court activity for family law cases at all courts — average activity up to October 31, 2015 for applications initiated in 2012 and their subsequent applications occurring in 2012 (CSB data)

Element	Provincial court			Supreme Court initiating
	Initiating	Subsequent	All	
Number of applications	7,321	23,542	30,863	12,171
Average scheduled appearances	1.4	2.3	2.1	1.3
Average number of adjournments*	0.17	0.31	0.28	0.38
Average days to first appearance**	120.2	59.3	69.2	164.5
Average days to first order***	146.6	93.9	102.9	192.0
% of applications going to trial+	9.2%	17.6%	15.8%	3.2%
Average days to first trial appearance+	283.9	210.3	219.6	514.1
Average days to last trial appearance+	351.8	277.8	287.2	586.5
Average court hours per application++	1.3	1.4	1.4	3.2

Source: Data provided by Court Services Branch.

* Includes adjournments that occurred up to a court hearing, including those occurring the same day as the hearing but not adjournments that occurred at the court hearing.

**Of 3,225 initiating and 16,581 subsequent applications in provincial court and 3,059 in Supreme Court that had a first appearance.

***Of 2,558 initiating and 12,374 subsequent applications in provincial court and 10,410 in Supreme Court that had a first order.

+Of 673 initiating and 4,645 subsequent applications in provincial court and 390 in Supreme Court that had a trial/hearing.

++Court hours include time for all appearances for 3,223 initiating and 16,569 subsequent applications in provincial court and 3,039 initiating applications in Supreme Court.

5.0 Findings

The evaluation findings are presented based on the evaluation questions, which focus on the implementation of the pilot project and its intended outcomes.

5.1 Implementation

1. Has the project been implemented as intended in Year 1? What challenges were identified and how were these addressed?

The evaluation found three key challenges that were encountered during the project's implementation. These are summarized below.

External collaborators desire greater communication with LSS

LSS key informants reported that teleconferences were held in earlier stages of the project to provide training to the roster mediators on the pilot model. After the mediation administrator position was moved in-house, LSS held two training sessions (in August and September 2015) to update mediators on the new process. LSS reports that no further training has been conducted as there have been no further changes to the project.

External key informants reported there has been little communication with LSS since implementing the in-house mediation administrator position. Specifically, mediators want regular communications or meetings between LSS and the project mediators to better understand how the project's new mediation administrator process is working and to share challenges they have encountered during implementation.

Some mediators who were receiving calls prior to the transition to in-house mediation administration reported that it seemed as though the project ended after the transition, because they were not receiving any calls or being chosen by potential clients and were not receiving any regular communications from LSS about the project. To verify this observation, the administrative data was analyzed to determine how often mediators were being used over the course of the project. The analysis found that seven mediators had mediations prior to and after the summer of 2015, while six had not received any mediations since the summer of 2015. Another three mediators only conducted mediations after the summer of 2015. This finding helps explain why several of the interviewed mediators felt unsure whether the project was still active, and it alludes to the importance of maintaining regular communication with the roster of mediators. As one mediator expressed, there is no sense of community among mediators and no sense of working together. Many mediators referred favourably to the use of monthly teleconferences during the earlier phase of the project as an effective way to share project experience and update the mediators on project progress and challenges.

Lack of support for independent legal advice and agreement drafting

Noted as a key challenge in the process evaluation, internal and external key informants again often mentioned the lack of support for agreement drafting (turning a memorandum of understanding [MOU] into a binding agreement⁷) and independent legal advice (ILA) when reviewing agreements related to property. Clients utilizing the program are typically clients who cannot afford the cost of private lawyer but do not qualify for a full legal aid representation contract. External key informants report there is a lack of low cost or no cost unbundled legal services available to clients. Roster mediators all recognized the importance of clients receiving independent legal advice on their mediated agreements; however, a few were unaware that family duty counsel and LawLINE lawyers could not provide ILA on complex property matters. Based on interviews with roster mediators, access to collaborative family law practices varies greatly community to community, with some communities having well-integrated networks of lawyers and mediators, and other communities where there is little or no collaborative approach between mediators and lawyers.

Low volume of clients

Many internal and external key informants commented on the low volume of clients that have been referred to the project and participated in mediation. Just over 200 clients have been referred to the project since it launched in late November 2014. Of these, about a quarter (26%) went on to mediation, while over half (58%) did not proceed to mediation. These results are further explored under Questions 5, 7, 8, and 11.

Table 9: Client status		
	#	%
Went to mediation	53	26%
Completed	24	12%
Ended	18	9%
In process	11	5%
Did not proceed to mediation	117	58%
Pending decision of parties to participate	32	16%
Total	202	100%

As Figure 1 illustrates, looking at overall project intake shortly after the project launched, referrals to the project were trending strongly upward but fell off drastically between May and September 2015. In April 2015, as noted in the process evaluation, LSS launched its new computer information system (CIS), which slowed the intake process and overall was believed to have resulted in fewer referrals to the project, according to internal key informants. For the summative evaluation, several internal key informants reported that intake was put on hold around July 2015 while the mediation administrator position was moved in-house. While intake has trended slowly upward since September 2015 — possibly benefiting from provincial conferences for advocates and community partners in early October 2015⁸ — month-to-month project intake is still below the levels seen in the first few months of the project.

⁷ Mediators who are not lawyers cannot draft agreements.

⁸ LSS delivered presentations on all five JITI projects at the provincial conferences for advocates and community partners.

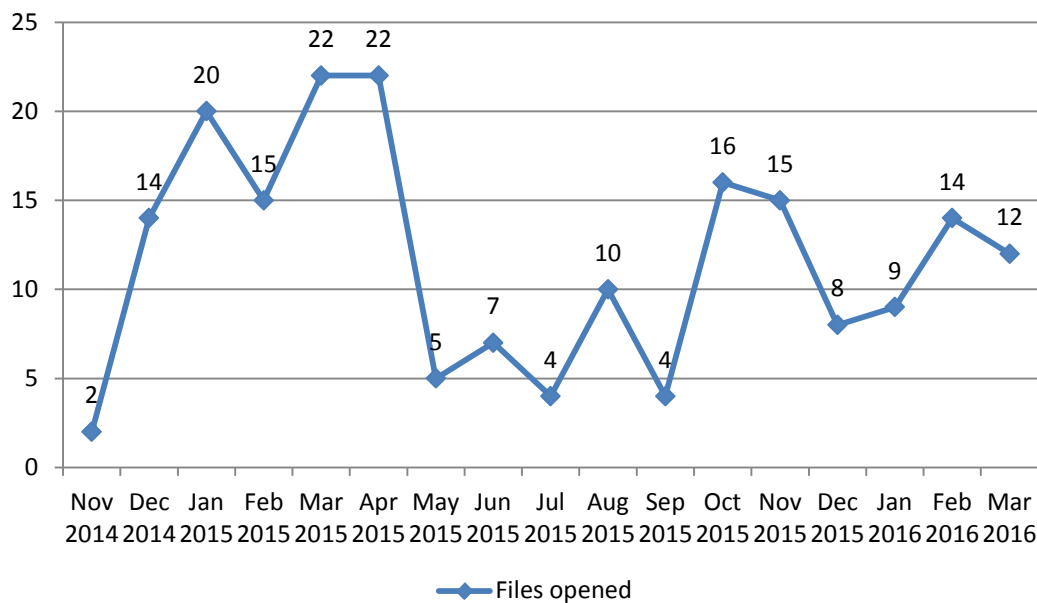


Figure 1: MED REF intake

Internal and external key informants offered several possible explanations for the lower than expected levels of intake.

- ▶ **Clients drawn mainly from general LSS intake:** One potential reason for low levels of intake is that the project has relied largely on the general LSS intake line for clients. This may be an issue, because these clients already have an adversarial process in mind and are typically calling legal aid for a lawyer. Clients in this particular position may be apprehensive about the idea of mediation, given that it relies on the other party's cooperation, which may seem unlikely at the time. To be successful, the parties need to be able to approach mediation cooperatively, and for some — particularly those with relationships rife with conflict and entrenched positions — the adversarial route might seem more likely to produce the desired results.
- ▶ **Lack of project promotion:** Many external key informants commented on the lack of promotion and education among potential referral networks, particularly among non-legal services organizations, such as doctors, therapists and counsellors, clergy, and other front-line service organizations who may encounter potential clients. A few mediators reported they undertook efforts to raise project awareness on their own, but there has been no concerted effort by the project to utilize roster mediators to advertise and raise awareness in their communities.
- ▶ **Innate challenge of voluntary mediation programs:** Several external key informants indicated they were involved in previous low cost/no cost voluntary mediation programs. These key informants noted that finding participants who are willing to try mediation is an innate challenge with voluntary mediation programs. As such, these projects benefit from a rigorous front-end client education component to ensure clients are making an informed decision to participate. This approach is both time intensive and resource heavy.

2. What external factors have influenced the implementation and success of the project?

Referrals from family justice counsellors remain unknown

As reported in the process evaluation, during the design phase of MED REF, it was clarified that the pilot project would provide complementary mediation services for matters involving property division, debt division, and complex spousal support — thereby offering another potential referral resource for family justice counsellors (FJCs) in matters that fell outside the FJC mandate. The document review found numerous instances which pre-supposed FJCs would be a likely source for potential clients. However, based on the project's administrative data, there is no record of referral from FJCs to MED REF.⁹ LSS reports that it provided project information to FJCs but is unaware whether FJCs are making referrals to the project. A few roster mediators indicated that their local FJCs are aware of the project, but these mediators did not know about the extent of referrals from FJCs.

3. Do stakeholders feel properly prepared for their role in the program and consider the available information/tools for performing their role helpful?

New mediation administrator position implemented

During the process evaluation, LSS staff reported that they were satisfied with the amount of preparation they received for the pilot project. Since the process evaluation, the mediation administrator position (formerly operating through Mediate BC) was moved in-house to LSS¹⁰. Internal key informants reported that the new mediation administrator underwent training for the position and the staff member who took on the role believes they were appropriately prepared for their position. The few roster mediators who recalled directly dealing with the mediation administrator indicated that communications have been pleasant and requests have been dealt with quickly.

⁹ It is important to note that 43% of clients (n=86) have no data on where the client was referred from. According to this field, most clients (48%) are recorded as coming from Legal Services/Legal Aid.

¹⁰ A description of this position is provided in Section 3.0 above.

4. Did the project have sufficient resources and capacity to meet demand and any intended targets?

Project volume has decreased since process evaluation

The process evaluation posited that the project’s ability to reach its full capacity may have been limited by the fact that the project had been operating for a relatively short period (seven months). Over half a year later, the summative evaluation again found that the issue for the pilot project is not whether there is or is not sufficient capacity to meet demand, but whether the project is or is not sufficiently reaching potential demand.

	November 2014 to July 2015		August 2015 to March 2016		Total	
	#	%	#	%	#	%
Cases that proceeded to mediation	36	68%	17	32%	53	100%
Cases that did not proceed to mediation	75	65%	41	35%	116*	100%
Total	111	66%	58	34%	169*	100%

*Excludes 32 cases pending decision to participate in mediation and one case that did not proceed to mediation but did not have a file open date and therefore could not be sorted into either period of analysis.

As the above table shows, over a 16-month period, a total of 53 cases (26% of all project intake) have proceeded to mediation, resulting in an average of about three referrals to mediation per month. Adding to this challenge, the evaluation found that overall project intake decreased since the process evaluation. Over an eight-month period from November 2014 to the end of July 2015, 111 clients were processed by the project. During the eight months between August 2015 and March 2016, 58¹¹ clients were processed by the project.

Specifically, of the 53 cases that proceeded to mediation under the project, more than two-thirds (68% or n=36) entered the project prior to August 2015, while the remaining one-third (32% or n=17) entered the project after July 2015. Results are similar for cases that did not proceed to mediation, with two-thirds of clients (65%) entering the project prior to August 2015 and the remaining one-third (35%) entering the project after July 2015.

LSS reports the decrease in project intake may be due to changes to LSS policy that occurred in July and August 2015, where LSS introduced greater latitude to its exception review policy to increase the number of clients receiving a full representation contract. As a result, some clients that might have previously been referred to MED REF may have been given a full legal aid contract. The evaluation is unable to determine the extent to which these policy changes may have affected project intake between August 2015 and March 2016.

¹¹ If the analysis includes clients who had not yet made a decision whether to participate by April 4, 2016 (n=32), then a total of 90 clients were processed during the latter period, which represents a less drastic decrease, but still a decrease in volume over time.

LSS suggests expanding roster of mediators, though current roster not fully utilized

LSS key informants raised concerns over possible gaps in geographic coverage for clients who want face-to-face mediation as opposed to distance mediation. The northern part of Vancouver Island was provided as an example of such a gap. One potential solution suggested by LSS is to expand the roster beyond Mediate BC's members. The geographic limitations of in-person mediation services among the current roster of mediators was not made available to the evaluation and the evaluation could not analyze the impact of these possible geographic gaps because LSS does not systemically track cases that did not proceed to mediation given a lack of locally available face-to-face mediation services.

However, the evaluation was able to examine the usage of the current roster of mediators. As the table below shows, about half of the available roster mediators (16 or 52%) have handled one or more mediations under the project. LSS notes that of the mediators who have not received contracts, many are limited in that they are not yet qualified by Mediate BC to mediate alone,¹² or they do not mediate property or debt issues. Mediate BC adds that it is important these resources — who are supervised and mentored by experienced mediators — are utilized to ensure the next generation of mediators receives the experience they need to become roster lawyers and, thereby, build upon the province's mediation capacity.

Total mediators participating in MED REF	31
Mediators who have received a contract under MED REF	16 (52%)
Average number of cases per mediator	3

More hours used in mediation than pre-mediation; external key informants continue to report that six hours of LSS funding is barely sufficient

The administrative data analysis found that, compared to results from the process evaluation, clients are, on average, using more of their time in mediation sessions than in pre-mediation sessions.

Amount of time	Pre-mediation	Mediation
Average (summative evaluation) (n=42)	2.1 hrs	4.0 hrs
Average (process evaluation) (n=11)	2.3 hrs	3.1 hrs

Note: Average is based on the mean hours used at the indicated stage.

¹² These mediators can co-mediate with more senior mediators, which allows them to gain the experience needed to apply for the Mediate BC roster, which will enable them to mediate on their own.

As with the process evaluation, most of the roster mediators interviewed for the summative evaluation reported that six hours of LSS-funded time is not enough or is the minimal amount of time needed to complete mediation, particularly for complex matters that involve more pre-mediation time and/or involve children and property. LSS indicated it was never the intent of the project that six hours would be sufficient to complete all mediation, and that is why the sliding scale option is available.

However, according to the administrative data, only one case so far has utilized the sliding scale (see Question 8 for further details). The evaluation could not definitively determine why the sliding scale is not being used. But it is worth noting that during both the process and summative evaluation, interviewed clients reported that they did not use the sliding scale because they already reached an agreement or believed no further progress could be made with the other party. Also, many of the interviewed mediators reported that they would prefer the sliding scale be calculated prior to the mediation, because calculating the rate after the six hours of LSS funding creates a lull in the mediation process.

Part of the issue may also be related to mediators being reluctant to charge clients the cost of administrating their mediation file. As with the process evaluation, many mediators commented on providing services at no cost to the project. Activities included arranging for the sliding scale (this is typically done at the end of the six hours); drafting an MOU or separation agreement; preparing a summary of issues after each mediation session and “homework” for the next session; and administrative time (e.g., arranging the next mediation session between both parties and filling out paperwork).

5. To what extent do the current processes and structure of the MED REF project support its efficient and effective delivery?

Reduced time spent at mediation administrator stage, but volume of referrals is down

During the process evaluation, key informants believed that the longer than expected time taken at the mediation administrator stage affected the efficiency of the MED REF project. The position was brought in-house in the summer of 2015. These revised roles and responsibilities were intended to streamline the application and approval process, because it would eliminate duplicative record-keeping between LSS and Mediate BC and would put a 90-day limit on the time allotted for clients to transition from intake to mediation.

Administrative data shows that for cases that proceed to mediation, clients are spending, on average, less time at the mediation administrator stage. This decreased from an average of 34 days prior to August 2015 to about 22 days in the months up to the end of March 2016. Both averages are far below the 90-day maximum clients have to complete the application process and be referred to mediation.

Table 13: Client processing statistics (among clients who went to mediation)

		November 2014 to July 2015	August 2015 to March 2016
Contact Client 1	N-size	36	17
	Mean (median)	10.6 days (7.5 days)	4.4 days (2 days)
	Missing data	0 cases	0 cases
Contact Client 2	N-size	36	17
	Mean (median)	15.8 days (7.5 days)	7.3 days (6 days)
	Missing data	0 cases	0
Match with mediator	N-size	36	13
	Mean (median)	7.7 days (5 days)	12.8 days (8 days)
	Missing data	0 cases	4 cases
Total time at mediator admin	N-size	36	17
	Mean (median)	34.1 days (26 days)	21.5 days (17 days)
	Missing data	0 cases	-

Note: Summing the n-sizes for the pre-post period equals the total number of clients who proceeded to mediation (n=53).

For cases that did not proceed to mediation, two-thirds of cases that were referred to the project since August 2015 (27 out of 41) did not contact the mediation administrator, and therefore do not have data available for this analysis. For cases with data, both periods had averages that are below the 90-day maximum clients have to complete the application process and be referred to mediation.

		November 2014 to July 2015	August 2015 to March 2016
Contact Client 1	N-size	58	14
	Mean (median)	54.3 days (54 days)	6.9 days (2 days)
	Client did not contact mediation administrator	17 cases	27 cases
Contact Client 2	N-size	11	3
	Mean (median)	64.6 days (59 days)	1 day (1 day)
	Client did not contact mediation administrator	unknown	unknown
Match with mediator	N-size	unknown	unknown
	Mean (median)	-	-
	Client did not contact mediation administrator	-	-
Total time at mediator admin	N-size	58	14
	Mean (median)	66.6 days (63 days)	7.1 days (2 days)
	Client did not contact mediation administrator	17 cases	27 cases

Note: Analysis excludes one client who did not have a file open date because client could not be associated with either period. Summing this and the n-sizes for the pre-post period (58 and 14 cases) plus the clients did not contact mediation administrator (17 and 27 cases) equals the total number of clients who did not proceed to mediation (n=117).

While the administrative data show cases that proceeded to mediation are spending less time at the mediation administrator stage, it is important to note that fewer clients have gone through the mediation administrator since August 2015. The decrease in volume varies depending on how it is calculated. If clients who had not yet decided whether to participate in the project at the time of the administrative data extract (n=32) are excluded, there was a 48% decrease in client volume between the two comparison periods. If these clients are included in the latter period, there was a 19% decrease in client volume between the two comparison periods.

	November 2014 to July 2015		August 2015 to March 2016		Total	
	#	%	#	%	#	%
Cases that proceeded to mediation	36	32%	17	29%	53	31%
Cases that did not proceed to mediation	75	68%	41	71%	116*	69%
Total	111	66%	58	34%	169**	100%

* Excludes 32 clients who — at the time of data extraction — had not yet decided whether they would participate in the project.
 ** Excludes one client who is missing a file open date.

5.2 Early indications of outcomes

The following sections discuss findings related to the MED REF outcomes.

6. Are appropriate cases being streamed to mediation services under MED REF?

Lack of data on external referrals to the project

While appropriateness of referrals considers whether clients that are referred to the project are suitable to mediation and fall within the project's scope, this outcome also considers whether relevant sources are aware of and are directing clients to the mediation project. As discussed under Question 1 and Question 2, one of the major challenges the project has encountered are the low volume of clients. External key informants believe the project has lacked adequate promotion, particularly among external, non-legal service organizations.

LSS intake is primary source for referrals

As discussed earlier, another potentially limiting factor is that clients are primarily drawn from LSS intake, in that these clients are not necessarily looking for mediation services when they call the LSS intake line. The pilot database contains a field to track where clients are referred from. This field is blank for 43% of cases. Most of the remaining clients (48%) were referred to the project through legal aid intake.

Looking specifically at how legal aid intake is referring clients to the program, the evaluation found the following:

- ▶ **A growing amount of intake is phone-based:** While most intake occurs in person (57%), a growing proportion of intake is occurring through the phone, increasing from 29% during the process evaluation to 43% during the summative evaluation. Nearly all of the phone-based intake occurs in Vancouver.
- ▶ **A growing number of local agent offices are referring clients:** The process evaluation found that most of LSS's local agent offices (67%, or 22 out of 33) were making referrals to the project. The current evaluation found more local agent offices are referring to the project. Specifically 27 out of 35 (or 77%) offices have referred at least one client to the project.
- ▶ **Kelowna stands out as a centre for in-person referrals:** Next to Vancouver, Kelowna had the largest number of referrals (n=20), with most of these being in-person (n=17). It's worth noting that a Kelowna-based roster mediator made efforts earlier in the project to advertise MED REF in the community newspaper, local radio station, and promote the project among the local family law subsections. LSS key informants also reported that a presentation was delivered to community organizations and transition house workers in the Okanagan to raise awareness of the two province-wide JITI projects (LawLINE and MED REF).

Table 16: Project intake				
Intake	Process evaluation		Summative evaluation	
	#	%	#	%
In person	73	71%	116	57%
Phone	30	29%	86	43%
Total intake	103	100%	202	100%
Referring offices				
Total local agent offices	33		35	
Total offices referring to MED REF	22 (67%)		27 (77%)	
Note: Percentage may not equal 100% due to rounding.				

Lack of referrals from LawLINE

Administrative data shows 16 MED REF clients came to the project after using one of the other JITI services, representing 8% of clients that were referred to MED REF. Another seven clients were referred to LawLINE and MED REF on the same day, making it unclear which service was accessed first. Most of the clients in the table below came to MED REF after using LawLINE, though there is no record in the LawLINE pilot data of any clients being referred to MED REF (although there were 111 referrals to private mediators). In fact, MED REF is not listed as a referral option on the LawLINE’s current case summary form. Given both JITI projects are province-wide, are offering complementary legal services, and have been in operation for at least 13 months,¹³ LawLINE should have been in a good position to refer potential mediation cases to MED REF, but this potential referral resource has not been fully utilized.

Table 17: Clients who used other JITI services before MED REF (n=23)	
	#
Family LawLINE to MED REF	11
Same-day contact (MED REF and LawLINE)	7
Expanded FDC to MED REF	2
Expanded FDC to MED REF to Family LawLINE	1
Family LawLINE to MED REF to Expanded FDC	1
Family LawLINE and Expanded FDC to MED REF	1

¹³ MED REF was launched in November 2014. The Expanded LawLINE was launched in March 2015.

Referrals to mediation are appropriate

As was the case in the process evaluation, the most common issues addressed by the project are property division (79%), spousal support (71%), and child support (48%). Other common legal issues include debt division, denial of parenting time, and parenting issues, which are all within the scope of the MED REF project.

Table 18: Client legal issues		
	Legal issues addressed (clients who completed or ended mediation) (n=42)	
	#	%
Property division	33	79%
Spousal support	30	71%
Child support	20	48%
Debt division	16	38%
Denial of parenting time	11	26%
Parenting issues	9	21%
Support arrears	5	12%
Pension	2	5%
Possession of home	2	5%
Disability pensions	1	2%
No data	6	14%
Note: Clients may have multiple issues identified. Totals will sum to more than 100%.		

While most mediators indicated the cases they received were appropriate for mediation, several mediators observed that in a few cases one or both of the clients they dealt with appeared to have more income or assets than the project referral criteria should allow. LSS reported that since only Client 1 needs to be financially eligible for service, it is not unusual for there to be an imbalance of income and assets between the parties involved.

7. Are participants receiving referrals to mediation in a timely manner and are participants satisfied with the referral process?

Referrals to mediation are timely

The project’s administrative data show most clients (76%) who proceeded to mediation came to the service before court proceedings had begun or a written agreement had been established. Most of the interviewed clients reported that they learned about MED REF services early enough in their family matter. The few clients who didn’t feel they learned about the service early enough would have liked to learn about the service before their initial court date or before they went to a lawyer.

Table 19: Stage of case

	Completed/ended (n=42)	
	When file opened	
	#	%
Before court proceedings or written agreement	32	76%
Court action commenced - before case conference	3	7%
Before final order	1	2%
After case conference - before interim orders	1	2%
After final order or agreement	-	-

Note: Percentage may not equal 100% due to rounding.

LSS intake application process is quick and easy

The pilot database shows that, for clients who proceeded to mediation, it took an average of 30 days (median 24 days) to get their referral to mediation. Since the mediation administrator position was moved in-house, this process decreased to an average of 22 days. Internal KIs also believed the process to be quick. The majority of interviewed clients found the application process easy or very easy. All 11 interviewed clients were satisfied with the amount of time between the application process and receiving the results of their application and the amount of time between their application being approved and the beginning of the mediation sessions.

Table 20: Client processing statistics (among clients who went to mediation)

		November 2014 to July 2015	August 2015 to March 2016	Overall
Total time at mediator admin	N-size	36	17	53
	Mean (median)	34.1 days (26 days)	21.5 days (17 days)	30 days (24 days)

Clients who don't proceed to mediation take longer at mediation administrator stage

As with the process evaluation, the summative evaluation found that clients who did not proceed to mediation tend to take considerably longer at the mediation administrator stage. A lack of data for this subset makes it difficult to reliably determine whether the move in-house has reduced the amount of time at this stage. Overall, these cases took nearly double the time at the mediation administrator stage compared to cases that proceeded to mediation. As to why this subset of clients are taking longer at the mediation administrator stage, the process evaluation found that it generally took longer to reach and inform Party 2 about the option to mediate, which slowed the screening process. During the summative evaluation, LSS key informants reported that this continued to be the case.

	#	%	Overall
Did not proceed to mediation	117	58%	55 days ¹⁴ (53 days median)
Went to mediation	53	26%	30 days (24 days median)
Pending decision of parties to participate	32	16%	Not applicable
Total	202	100%	42 days (33 days median)

The most common reason for clients not proceeding to mediation was that one or both parties could not be located or had not responded to contact attempts (51%). Nearly a quarter of cases (24%) involved one or both parties declining to participate.

	#	%
One or both parties cannot be located or have not responded to contact attempts	60	51%
One or both parties declined to participate	28	24%
One or both parties not ready for mediation	13	11%
Parties to resolve/resolved issues through other means (counselling, negotiations, reconciliation)	7	6%
Mediation is not appropriate	7	6%
Referred to FJC	4	3%
Issue outside mandate	1	1%
One or both parties lack the necessary authority to settle	1	1%
Client provided with legal aid lawyer	1	1%
Change in parties' family circumstances - children put in foster care	1	1%
No data	2	2%

Note: Percentage may not equal 100% due to rounding.

¹⁴ Averages should be interpreted with caution. About 44 clients who were referred to the project never made contact with the mediation administrator and therefore do not have data available for this analysis.

8. To what extent has the program increased access to affordable mediation services for people with low incomes?

Small number of mediations suggests MED REF made minimal contribution to increasing access to affordable mediation

The intermediate outcome for the MED REF project is participants resolving and/or narrowing their family law issues through mediation. Administrative data shows a quarter (n=53 or 26%) of the clients processed by the project proceeded to mediation. Of these cases, 24 went on to complete their mediation and another 18 mediations ended prior to completion, settling no issues (n=13) or settling some issues (n=2), or having no data recorded on outcomes (n=3). Eleven cases were still in process at the time of the evaluation.

Clients are not using the sliding scale

The project's administrative data show one case used the sliding scale as of April 4, 2016. In this case, the sliding scale was used for four hours, with Party 1 paying \$20/hour and Party 2 paying \$180 per hour. The case went on to resolve all issues and resulted in a draft MOU.

During both the process and summative evaluation, interviewed clients reported that they did not use the sliding scale because they already reached an agreement or believed no further progress could be made with the other party.

Many of the interviewed mediators reported that they would prefer the sliding scale be calculated prior to the mediation because calculating the rate after the six hours of LSS funding creates a lull in the mediation process.

9. Are participants adequately prepared and informed prior to, during, and after the mediation session?

Clients are frequently provided referrals to other family law resources

LSS key informants reported that the mediation administrator provides clients — via telephone and email — with an overview of the mediation process, explains features of the service (six hours of LSS-funded mediation and the sliding scale) and recommends both parties get legal advice on their issues before going to mediation. Many of the roster mediators also reported encouraging clients to receive ILA before, during, and after the mediation process. Mediators mentioned referring clients to LawLINE, Family Duty Counsel, Access ProBono ClickLaw, LSS’s family law website, private lawyers, the lawyer referral service through the BC branch of the Canadian Bar Association, Justice Access Centres, and student law centres.

This aligns with data recorded in the project’s administrative database, which show for clients who proceed to mediation, the most common referrals to other resources include the LSS Family Law Website, a private lawyer for advice, Family LawLINE, and family duty counsel. Among all clients, a large number of clients (n=123 or 61%) do not have information entered for this field.

Table 23: Other services client referred to

	Clients who proceeded to mediation (n=53)		All clients (n=202)	
	#	%	#	%
LSS family law website	17	32%	41	20%
Private lawyer - advice	21	40%	21	10%
Other government agency	5	9%	19	9%
LSS Family LawLINE	9	17%	18	9%
LSS family duty counsel	9	17%	10	5%
Family justice counsellor	3	6%	7	3%
JAC - resource room or self-help	1	2%	5	2%
Access Pro Bono	3	6%	4	2%
Legal services/legal aid	3	6%	4	2%
Private lawyer - draft agreement	4	8%	4	2%
Advocate or community agency	2	4%	3	1%
Online/internet	2	4%	3	1%
Health professionals	2	4%	2	1%
Family maintenance program (income assistance)/FMEP	1	2%	2	1%
MCFD social worker	-	-	1	<1%
Law students' clinic or program	1	2%	1	<1%
Immigrant settlement or multicultural organization	1	2%	1	<1%
No data	13	25%	123	61%

Note: Percentage may not equal 100% due to rounding.

Few clients are using LawLINE during or after their mediation

As the table below shows, about 17 clients are recorded as being referred to LawLINE from MED REF, representing 8% of all project intake. The relatively low rate of referrals from MED REF to LawLINE, particularly for clients who proceeded to mediation (n=9) is surprising given LawLINE exists to provide lower-income BC residents brief family law advice on many of the same legal issues that fall within MED REF's scope of services.

An analysis of the administrative data from MED REF and the other family law JITI projects found 20 MED REF clients went on to use other JITI services after entering the MED REF project. Another seven clients had a MED REF and LawLINE file opened on the same day. Notably, among the 17 MED REF clients who went from MED REF to LawLINE:

- ▶ Few (n=3) were recorded as actually receiving a referral to LawLINE.
- ▶ Four cases were completed or ended their mediation. Three of these cases accessed LawLINE prior to the end date of their mediation.
- ▶ Ten of these cases did not proceed to mediation; on average, these clients accessed LawLINE about 81 days after they first accessed MED REF, although this varied greatly between clients, ranging from a few days to several months to a year.

	#
MED REF to Family LawLINE	17
Same-day referral (MED REF and LawLINE)	7
MED REF to Expanded FDC	3

Clients feel adequately informed and prepared for mediation

The process evaluation found that clients generally found the information provided during the intake and assessment process was explained well and easy to understand. They appreciated the use of plain language explanations. Interviewed clients who were referred to a mediator (n=5) generally believed they received enough help, support, and information. Similarly, all of the 11 clients interviewed for the summative evaluation reported that prior to meeting with the mediator they received information that explained the mediation process and all clients believed they received enough information to help them in deciding whether to participate in mediation.

Of the 11 clients interviewed for the summative evaluation, five reported they were referred to family duty counsel, one was referred to a legal aid lawyer, and the remainder could not recall what, if any, referral they received. Four of the interviewed clients reported using either a private lawyer and/or family duty counsel to review the agreement resulting from their mediation.

10. Are participants satisfied with the mediation process and outcomes of their mediation?

Lack of data on client satisfaction

As noted in the process evaluation, the project’s approach to tracking client satisfaction has encountered challenges since implementation. Mediate BC designed and implemented a concise single-page client feedback form for this purpose and few clients have returned their feedback forms. Although designed by Mediate BC, the forms were to be distributed by mediators, who have final contact with clients. Originally, mediators were responsible for returning completed forms to Mediate BC. However, Mediate BC reported during the summative evaluation that collecting these forms is no longer part of the organization’s role in the project. During the summative evaluation, few roster mediators appeared to be aware of the form.

Based on the evaluation’s client survey, most clients were satisfied with the process of getting to mediation, but 7 out of 11 interviewed clients reported they were dissatisfied with the results of the mediation process. Most clients whose mediation process ended were dissatisfied, while clients who completed their mediation ranged from somewhat dissatisfied to very satisfied. Clients who were dissatisfied reported that they lacked the money to continue, spent money and did not like the results, indicated there was more conflict than expected, or were frustrated because the other party left or would not cooperate. Clients who were satisfied commented that the mediation offered a chance to talk and negotiate, that it was helpful, and that it was easier than going to court.

11. To what extent are participants resolving or narrowing their family law issues through mediation?

Half of all completed mediations resolved all issues, a few solved some issues

As the table below shows, LSS funding enabled about half of all completed cases (13 out of 24) to settle all of their issues and develop an MOU. Among the remaining cases, four settled some issues under LSS funding and four other cases settled no issues. One case settled some issues under LSS funding and settled the remaining issues using the sliding scale.

	#	%
Resolved all issues under LSS funding	13	54%
Some issues settled under LSS funding	4	17%
No issues settled	4	17%
Resolved some issues under LSS funding, resolved remaining issues under sliding scale	1	4%
No data	2	8%

Note: Percentage may not equal 100% due to rounding.

Client interviews also suggest a mix of narrowing and resolving issues. Among the five interviewed clients who were recorded in the project database as completing their mediation, four indicated the time provided was enough to narrow their family law issues, and two of these clients reported it was enough time to resolve some or all of their family law issues.

The table below summarizes the next steps for interviewed clients who completed mediation. Two clients planned to resolve their remaining matters out of court, one client planned to drop their unresolved matter, one client planned to resolve the remaining matters in court, and one client reported that all their matters were resolved through mediation.

Table 26: Next steps for interviewed clients who completed mediation (client interviews)	
	Summative evaluation (n=5)
Resolve the remaining matters out of court (e.g., negotiate with other party)	2
Drop the unresolved matter(s)/hope other party drops unresolved matter(s)	1
Not applicable, all matters were resolved through mediation	1
Resolve the remaining matters in court	1

Among the clients whose mediation process ended prior to completion (n=18), administrative data show that common barriers to resolution included one or both parties being unwilling to accept responsibility, or having unrealistic expectations, and/or lacking representation/legal advice, and/or not being prepared at an emotional level to participate in mediation.

The table below summarizes the next steps for interviewed clients who ended their mediation. Four of these clients planned to resolve the remaining matters in court, while the other clients were not sure what they were going to do next or indicated they would drop the unresolved matter.

Table 27: Next steps for interviewed clients who ended mediation	
	Summative evaluation (n=6)
Resolve the remaining matters in court	4
Drop the unresolved matter(s)/hope other party drops unresolved matter(s)	1
Don't know	1

Stage of case remains the same

The pilot database shows there were few changes in the stage of the case between the opening and closing of the MED REF file for the 42 cases that completed or ended mediation.

Table 28: Stage of case	Completed/ended (n=42)			
	When file opened		When file closed	
	#	%	#	%
	Before court proceedings or written agreement	32	76%	29
Before final order	1	2%	2	5%
Court action commenced - before case conference	3	7%	2	5%
After case conference - before interim orders	1	2%	1	2%
After final order or agreement	-	-	1	2%
No data	5	12%	7	17%

Note: Percentage may not equal 100% due to rounding.

12. To what extent has the MED REF pilot led to net system savings due to efficiencies gained for the justice system?

This section¹⁵ looks at potential efficiencies gained for LSS and/or other areas of the justice system as a result of the pilot. As noted in the methodology section, it is not possible to make any conclusive statements on efficiencies gained or costs avoided, as there are no data available on the extent to which the pilot diverted its cases from the court system or reduced the number and length of appearances, or the number of adjournments and trials. Furthermore, outside of court costs, no other information was available to attach monetary estimates to other potential savings to the justice system outside of court costs (e.g., reduced demands on court registry from people looking for assistance or direction). Therefore, this section uses statistics on family court cases from across BC, as presented in Section 4.0, along with pilot data to make some estimates of potential costs avoided if MED REF achieved its outcomes. Hypothetical scenarios are used to illustrate different levels of costs avoided, based on the level of impact the project might have on the court system.

As was shown in Table 8, provincial court applications and Supreme Court applications that make a court appearance are not equal in their time requirements. Therefore, it would be useful to look at the level of court for the 28 MED REF clients referred to mediation in 2015–16; however, records for this field are blank for the majority of cases during this period. While it is possible that *some* of these files may never go on to make a court application or appearance, it is also possible that those whose court level is identified may not go on to make a court appearance. Based on proportions calculated for the system efficiency analysis for LawLINE — which deals with similar types of matters — the proportions are assumed to be around 61% for provincial court and 39% for Supreme Court, which works out to be 17 clients for provincial court and 11 clients for Supreme Court.

Potential cost avoidance from reduced court hours

Many family law cases do not go to court and therefore the analysis needs to take this into consideration. According to CSB data, approximately 59% provincial court and 25% of Supreme Court applications result in a court appearance. For the purposes of these estimates, each LawLINE file is treated as an application. As shown in Table 8, provincial court applications that make a court appearance require an average of approximately 1.36 hours of court time. Supreme Court applications that make a court appearance require an average of approximately 3.2 hours. These include court appearances for any reasons. From data provided by CSB, courts costs per hour are approximately \$581 for provincial court and \$653 for Supreme Court.

¹⁵ We understand that any efficiency created in the system will be backfilled by cases waiting for a hearing. Thus, any court savings are at best costs avoided by these cases. The language above has not been changed, as it was approved during consultations for development of the summative evaluation matrix provided in Appendix B.

From this information, the following estimates can be made in Table 29.

#	Item	Provincial court	Supreme Court
1	Number of MED REF files (applications)	17	11
2	Percent of applications that make a court appearance	59%	25%
3	Number of MED REF files with an appearance (1*2)	10	3
4	Average court hours per application	1.36	3.2
5	Total court hours (3*4)	13.64	8.80
6	Court costs per hour	\$581	\$653
7	Total court costs (5*6)	\$7,919	\$5,747

Sources: Calculations made based on pilot database and CSB data. Court cost data were provided by LSS, working with George McCauley, an independent consultant, and are based on Ministry of Justice data.
 Note: Numbers may not calculate exactly due to rounding.

While we do not have pilot data to indicate what happens to these cases once they have completed their services at the pilot, we can make some estimates based on scenarios. Below we provide some potential impacts of the pilot based on what might be considered low to very high impacts if the services from MED REF were able to reduce the number of court hours per file by anywhere from 10% to 50%. These estimates are provided in Table 30.

Item	Provincial court	Supreme Court	Total
Total annual court costs for all files	\$7,919	\$5,747	\$13,666
Reduce court hours by:	Total annual court costs avoided (all files)		
10%	\$792	\$575	\$1,367
20%	\$1,584	\$1,149	\$2,733
30%	\$2,376	\$1,724	\$4,100
40%	\$3,168	\$2,299	\$5,466
50%	\$3,960	\$2,873	\$6,833

Sources: Calculations made based on pilot database and CSB data.
 Note: Numbers may not calculate exactly due to rounding.

Based on these estimates, MED REF has the potential to avoid \$1,367 in court costs annually if court hours per file making a court appearance are reduced by 10%, and up to \$6,833 if court hours are reduced by 50%; this is assuming a similar number of client files are handled annually by MED REF as in 2015–16. The estimates would be the same if, instead of reducing court hours, the scenarios considered diverting these same percentages from court altogether. Note that these estimates are highly dependent on the volume of MED REF files and the effectiveness of MED REF services; as intake increases and more clients are referred to and complete mediations, there would be greater potential for court costs to be avoided.

Potential cost avoidance from reducing court trials

Another set of scenarios (which would be a subset of the above) can be estimated, considering a reduction in the number of applications that end in a court trial. From CSB data, approximately 15.8% of provincial court and 3.2% of Supreme Court applications go to a trial in the end. Trial durations are an average of 1.32 hours in provincial court and 2.44 hours in Supreme Court. Given that, prior to going to trial most cases have to go to a family/judicial case conference to try to resolve matters, it can be assumed if they go to trial they have also had a case conference. These conferences are an average of 0.78 hours in provincial court and 0.99 hours in Supreme Court.

From this information, the following estimates can be made in Table 31, keeping in mind that these only include average costs for the trial and any associated family/judicial case conference. As well, it is assumed that the average court costs per hour can also be applied to case conferences.

#	Item	Provincial court	Supreme Court
1	Number of MED REF files (applications)	17	11
2	Percent of applications that go to trial	16%	3%
3	Number of MED REF files that go to trial (1*2)	2.72	0.33
4	Average family/judicial case conference duration (hours)	0.78	0.99
5	Average trial duration (hours)	1.32	2.44
6	Total average court hours per trial (4+5)	2.1	3.43
7	Court costs per hour	\$581	\$653
8	Total cost/trial (6*7)	\$1,219	\$2,240
9	Total court costs for those going to trial (3*8)	\$3,316	\$739

Sources: Calculations made based on pilot database and CSB data. Court cost data were provided by LSS, working with George McCauley, an independent consultant, and are based on Ministry of Justice data.
 Note: Numbers may not calculate exactly due to rounding.

As with court appearances, we can make some estimates based on various scenarios for court trials. Below we provide some potential impacts of the pilot based on what might be considered low to very high impacts if the services from MED REF were able to reduce the number trials and their associated case conferences anywhere from 10% to 50%. These estimates are provided in the table below. This scenario assumes that with the assistance of MED REF, these clients are able to resolve their matters without the involvement of the judiciary through a trial and the associated case conference. Case conferences themselves are valuable for resolving matters and avoiding trials, or for narrowing the issues that need to be addressed at trials. This scenario does not include those files that might have a case conference only and then do not need to go on to a trial. It considers only the reduction in the number of court trials and associated case conferences.

Item	Provincial court	Supreme Court	Total
Total annual court costs for all files	\$3,316	\$739	\$4,055
Reduce # of trials by:	Total annual court costs avoided (all files)		
10%	\$332	\$74	\$406
20%	\$663	\$148	\$811
30%	\$995	\$222	\$1,217
40%	\$1,326	\$296	\$1,622
50%	\$1,658	\$370	\$2,028

Sources: Calculations made based on pilot database and CSB data.
 Note: Numbers may not calculate exactly due to rounding.

Based on these estimates, MED REF has a fairly limited potential of avoiding court costs by \$406 annually if the average court trials that might be expected from the files handled by MED REF are reduced by 10%, and up to \$2,028 if trials are reduced by 50%; this is assuming a similar number of client files are handled annually by MED REF as in 2015–16. Note that these estimates are highly dependent on the volume of MED REF files and the effectiveness of MED REF services; as intake increases and more clients are referred to and complete mediations, there would be greater potential for court costs to be avoided.

Cost efficiency of increasing volume of mediations

As mentioned above, court cost avoidance is dependent on the volume of completed mediations produced by the MED REF project. However, since not all parties are suitable or willing to take part in mediation, the project will continue to need to screen considerably larger numbers of applicants to find clients who are appropriate for mediation. Currently, this is the most costly component of the program, while the mediation sessions account for about a quarter of the project's costs.

Given the above considerations, it is worth exploring the potential cost implications of the project increasing its contribution to system efficiency by increasing the volume of completed mediations. For example, during fiscal year 2015–16, about 22% of clients who applied to the project proceeded to mediation. To double the number of clients sent to mediation within a fiscal year from 28 clients (as was the case in 2015–16) to 56 clients, the project would need to substantially increase its level of intake from 126 clients to 252 clients. It remains unclear whether this could be achieved without increasing the project mediation administration costs (e.g., by adding processing capacity) and thereby increasing the project's cost per unit, which — depending on how it is calculated — is currently somewhere between \$1,144 and \$2,729 per mediation.

13. Were there any unintended consequences or outcomes of the MED REF project identified in Year 1?

The summative evaluation did not find any unintended consequences or outcomes as a result of the MED REF project.

6.0 Conclusions

This section presents some brief conclusions of the summative evaluation, based on the data collection and analysis performed to date.

6.1 Conclusions on implementation of MED REF

Desire for greater communication with LSS

External key informants reported there has been little communication with LSS since implementing the in-house mediation administrator position. The evaluation found mediators would like more communication with LSS so they can better understand how the project's new processes are working and share challenges they have encountered during implementation with LSS and other project mediators (see recommendation 1 in the next section).

Low volume of clients

Many internal and external key informants commented on the low volume of clients that have been referred to the project and participated in mediation. Just over 200 clients have been referred to the project since it launched in late November 2014. Of these, about a quarter (26%) went on to mediation, while over half (58%) did not proceed to mediation. While intake has trended slowly upward since September 2015, month-to-month project intake is still below levels seen in the first few months of the project. Potential causes for the lower than expected volumes of clients include clients being drawn mainly from LSS's general intake line, a lack of project promotion, and the innate challenges of voluntary mediation programs (see recommendation 2).

Lack of support for independent legal advice and agreement drafting

Clients utilizing the program are typically those who cannot afford the cost of a private lawyer but do not qualify for a full representation contract. The project lacks adequate support for ILA when reviewing agreements related to property and agreement drafting. Furthermore, few clients appear to be utilizing LSS's Family LawLINE as a source of advice before, during, or after mediations. This represents a missed opportunity for greater JITI project integration (see recommendations 3 and 4).

6.2 Conclusions on outcomes

Lack of data on external referrals to the project and lack of referrals from LawLINE (Q6, Q9)

LSS intake continues to be the main source of referrals to the project. While more local agents appear to be referring to the project, the volume of referrals is still low. The evaluation cannot determine the degree to which external organizations are aware of MED REF and are making referrals. External key informants believe the project has lacked adequate promotion, particularly among external, non-legal service organizations. As mentioned above, the lack of integration between MED REF and LawLINE represents a missed opportunity for improving access to brief advice for mediation clients and potentially increasing referrals to mediation (see recommendations 2 and 3).

Lack of data on client satisfaction (Q10)

Overall there are not enough data to make a confident statement about client satisfaction. Based on the evaluation's client interviews, most clients were satisfied with the process of getting to mediation, but 7 out of 11 interviewed clients reported they were dissatisfied with the results of the mediation process. Most clients whose mediation process ended were dissatisfied, while clients who completed their mediation ranged from somewhat dissatisfied to very satisfied (see recommendation 5).

Referrals to mediation are timely and the application process is quick and easy (Q7)

Most clients are entering the project prior to court proceedings or a written agreement and interviewed clients reported that they learned about MED REF services early enough in their family matter. Interviewed clients, from both the process and summative evaluations, found the application process easy and reasonably quick. LSS has continued its efforts to make the MED REF application process more efficient, and this is apparent in the statistics for clients who proceeded to mediation.

Small number of mediations suggests MED REF made minimal contribution to increasing access to affordable mediation; however results are positive among cases that completed mediation (Q8, Q11, and Q12)

Administrative data show a quarter (n=53 or 26%) of the clients processed by the project proceeded to mediation. Of these cases, 24 went on to complete their mediation. Most of these cases resolved at least some of their issues (14 resolved all issues, four resolved some issues). These results suggest that while MED REF has made a minimal contribution to increasing access to affordable mediation, the project's mediation services have provided an effective means of settling family law issues among cases where both parties were amenable to cooperative approaches to resolving their family law issues.

Challenging model for achieving internal cost efficiency and substantial impact on system efficiencies

During 2015–16, it cost somewhere between \$1,144 and \$2,729 per case to produce the project successes outlined above, depending on how the cost per unit is calculated. The project's low volume of intake combined with the fact that it requires four to five client screenings to produce a single case for mediation presents a considerable challenge if the project desires to increase its contribution to system efficiencies. If the project were to double the number of clients sent to mediation within a fiscal year from 28 clients (as was the case in 2015–16) to 56 clients, the project would need to substantially increase its level of intake from 126 clients to 252 clients. It remains unclear whether this could be achieved without increasing mediation administration costs, which currently account for the largest proportion of the project's overall costs (see recommendation 2).

6.3 Recommendations to enhance MED REF

Below provides a few recommendations for LSS's consideration.

Recommendation 1: Implement more regular communications with roster mediators and Mediate BC, which will give mediators an opportunity to communicate challenges, ask questions, share project learnings, and help stimulate mediators' sense of belonging and commitment to the project.

Recommendation 2: Launch a series of targeted awareness campaigns in select communities to raise awareness around the benefits of mediation and the availability of MED REF services. Campaigns should target key potential referral points, including local agent offices, community partners and agencies (including non-legal service organizations), courthouses, family duty counsel, FJCs, and collaborative family practices. This should be followed up by tracking intake from these communities to measure the impact of the awareness campaigns. Consider how Mediate BC and roster mediators might be able to advise or assist in such a campaign.

Without improvement in project intake, LSS should consider whether MED REF has sufficient value to continue operating.

Recommendation 3: Improve integration with LawLINE and Expanded Duty Counsel for clients in or near Victoria to help ensure MED REF clients have adequate and easily accessible brief advice services, in case they have legal questions about their family law matters or are in need of information about their legal rights.

Recommendation 4: Make available short legal service contracts to MED REF clients who require ILA during and after their mediation. Alternatively, LSS might consider working with Mediate BC to ensure MED REF is well-integrated with the unbundled legal services available through MBC's Family Unbundled Legal Services Project, which launched in early 2016.

Recommendation 5: Implement an electronic (online or email-based) version of Mediate BC's client feedback survey and track results. If this is done, steps should be taken to ensure mediators are aware of the feedback form and are providing the form to clients.

Appendix A — MED REF logic model

Program logic model — Family Mediation Referral

Program activities		Program outputs	Short-term outcomes	Medium-term outcomes
INTAKE AND REFERRALS	Referral and screening of potential clients	<ul style="list-style-type: none"> • # and type of information disseminated about MED REF service • # of cases processed by intake and mediation administrator • # of referrals made for clients who are approved for mediation 	<ul style="list-style-type: none"> • Participants receive referral to mediation services in a timely manner • Appropriate cases are streamed to mediation service • Access to family law mediation services is increased for people with low incomes 	Participants resolve and/or narrow their family law issues through mediation
CLIENT SUPPORT	Preparation of clients for mediation and referral of clients to other family law services or resources	<ul style="list-style-type: none"> • Total # of pre-mediation sessions and total pre-mediation hours per client • Types of other family law resources used before, during, and after mediation (e.g., FLL, FDC, private lawyers, Access Pro Bono, online, FLWS, PLEI) 	<ul style="list-style-type: none"> • Participants are prepared and understand the mediation process and believe other family law resources are helpful in understanding their legal rights throughout the process 	
MEDIATION	Provide mediation services to financially-eligible family law clients	<p>Mediation</p> <ul style="list-style-type: none"> • Total # of mediation sessions and total mediation hours per client • # and type of issues addressed by Mediate BC (incl. ongoing, ended, and completed) • # and types of services provided during mediation • # of mediations involving technology, including type of technology and reasons for using technology <p>Resolutions</p> <ul style="list-style-type: none"> • # of mediation cases by outcome at end of LSS funding (ended, completed) • # of mediation cases by outcome at the time services ended or were completed • # and type of barriers to resolution 	<ul style="list-style-type: none"> • Affordable mediation services provided for people with low incomes • Participants are satisfied with the mediation process • Participants are satisfied with the outcome of their mediation 	

Appendix B — MED REF evaluation matrix

Framework for the Evaluation of the Family Mediation Referral pilot project		
Questions	Indicators	Data sources
Delivery questions		
1. Has the project been delivered as intended in Year 1? What challenges were identified and how were these addressed?	<ul style="list-style-type: none"> Stakeholder opinion on challenges/improvements 	<ul style="list-style-type: none"> Interviews with internal and external stakeholders Project documentation
2. What external factors have influenced the delivery and success of the project?	<ul style="list-style-type: none"> Stakeholder opinion Project meeting minutes documenting external factors Evidence that decisions, actions, policies of external organizations/stakeholders affect the project 	<ul style="list-style-type: none"> Interviews with internal and external stakeholders Project documentation
3. Do stakeholders feel properly prepared for their role in the program and consider the available information/tools for performing their role helpful?	<ul style="list-style-type: none"> Perceptions of project partners, team members, and pilot staff involved in delivering the project 	<ul style="list-style-type: none"> Interviews with internal and external stakeholders
4. Did the project have the resources and capacity to meet demand and any intended targets?	<ul style="list-style-type: none"> Stakeholder opinion that the project had sufficient resources to satisfactorily meet demand 	<ul style="list-style-type: none"> Program data Participant interviews Interviews with internal and external stakeholders
5. To what extent do the current processes and structure of the MED REF project support its efficient and effective delivery?	<ul style="list-style-type: none"> Stakeholder opinion on the current processes and structure to support the project 	<ul style="list-style-type: none"> Key informant interviews
Outcome questions		
6. Are appropriate cases being streamed to mediation services under MED REF?	<ul style="list-style-type: none"> Stakeholder opinion that relevant sources are aware of and directing clients to the mediation referrals and the extent appropriate cases are being streamed to mediation services Participant experience during intake and referral process 	<ul style="list-style-type: none"> Program data Participant interviews Interviews with internal and external stakeholders
7. Are participants receiving referrals to mediation in a timely manner and are participants satisfied with the referral process?	<ul style="list-style-type: none"> Duration (in days) <ul style="list-style-type: none"> Contacting applicants, discussing mediation, screening (from start to end of activity) Engaging other party, encouraging mediation, obtaining agreement (from start to end of activity) Acquiring financial information, calculating sliding scale rate (from start to end of activity) Matching family with a mediator (from start to end of activity) Staff and program partners' perceptions about timeliness and efficiency of referral process Participants' perceptions about timeliness (i.e., well timed) and efficiency of referral process 	<ul style="list-style-type: none"> Program data Interviews with internal and external stakeholders Participant interviews
8. To what extent has the program increased access to affordable mediation services for people with low incomes?	<ul style="list-style-type: none"> Number, percent, and types of cases that started but didn't complete Mediate BC service, and reasons why Breakdown on how LSS funding was used (hours used in pre-mediation vs. mediation, services provided, outcome at conclusion of LSS funding) Percent of cases resolved within the six hours of LSS funding and % of unresolved cases that did not proceed beyond LSS funding and reasons (or barriers) to proceeding (or resolution) 	<ul style="list-style-type: none"> Program data Interviews with internal and external stakeholders Mediate BC client feedback survey data Participant interviews

Framework for the Evaluation of the Family Mediation Referral pilot project		
Questions	Indicators	Data sources
	<ul style="list-style-type: none"> • Breakdown on use of sliding scale (total hours, sliding scale rate, frequency, average, minimum rates, maximum rates, and amounts paid) • Number and percent of cases using the sliding scale cases by level of completeness • Number and percent of cases and related reasons (or barriers) for sliding scale cases ending prior to completion, and outcome at the time of ending • Number and percent of participants satisfied with fees charged for the mediation service (by role, issues, level of resolution) • Number of clients using family law mediation services through MED REF has increased over time • Staff and partners perceptions on the affordability of mediation • Participant perceptions on the affordability of mediation • Participant perceptions about whether they would have used mediation services on their own and whether the sliding scale was affordable 	
9. Are participants adequately prepared and informed prior to, during, and after the mediation session?	<ul style="list-style-type: none"> • Client and stakeholder perceptions about clients being prepared for the mediation process (e.g., understanding whether mediation is appropriate for their case; making an informed decision to participate) • Client and stakeholder perceptions about the use and helpfulness of other family law supports prior to, during, and after mediation • Client use of lawyer to receive independent legal advice or for agreement drafting services • # and % of clients referred to Family Law Line and Family Duty Counsel, and # and % who used these services 	<ul style="list-style-type: none"> • Program data • Participant interviews • Interviews with internal and external stakeholders
10. Are participants satisfied with the mediation process and outcomes of their mediation?	<ul style="list-style-type: none"> • Perceptions of participants who either completed a mediation or ended their mediation prior to completion • Mediator perception of client satisfaction with process and outcomes of mediation • # and % of clients who feel satisfied with the process of their mediation • # and % of clients who feel satisfied with the outcome of their mediation • # and % of clients willing to try mediation again in a different dispute 	<ul style="list-style-type: none"> • Participant interviews • Interviews with internal and external stakeholders • Mediate BC client feedback survey data
11. To what extent are participants resolving and/or narrowing their family law issues through mediation?	<ul style="list-style-type: none"> • # and % of cases with none, some, or all issues settled at the time the mediation was completed, and other outcomes (including barriers to resolution, issues addressed, services provided) • Stage of case when file opened vs. when file was closed (among completed cases) • Feedback on whether mediation resolved or helped narrow participants' family law issues 	<ul style="list-style-type: none"> • Program data • Interviews with internal and external stakeholders • Participant interviews • Mediate BC client feedback survey data
12. To what extent has the MED REF pilot led to net system savings due to efficiencies gained for the justice system?	<ul style="list-style-type: none"> • MED REF average cost per case • Cost implications of estimates of avoided court costs based on costs of actual court activity • Comparison of budget allocation to expenditures 	<ul style="list-style-type: none"> • Program data • CSB data • Key informant interviews
13. Were there any unintended consequences or outcomes of the MED REF project identified in Year 1?	<ul style="list-style-type: none"> • Stakeholder opinion on unintended consequences or outcomes of the MED REF project 	<ul style="list-style-type: none"> • Key informant interviews

Appendix C — Interview guides

**Legal Services Society of British Columbia
Family Mediation Referrals Pilot Project Evaluation**

Interview guide for internal stakeholders

The Legal Services Society of British Columbia (LSS) requires an evaluation of the Mediation Referrals (MED REF) pilot project which has been implemented under the Justice Innovation and Transformation Initiative (JITI). LSS has hired PRA Inc., an independent research company, to assist in the evaluation. One component of the evaluation is to conduct telephone interviews with stakeholders who are familiar with the MED REF project.

The interview should take no more than one hour. The information we gather through the interviews will be summarized in aggregate form. With your permission, we will audio record the interview for the purpose of note-taking. No one outside of PRA will see your notes or hear your recording.

The current evaluation focusses on the implementation of the MED REF project to identify early issues and make recommendations to assist LSS management in improving/refining project implementation. This evaluation will also examine early indicators of success in meeting the project's objectives.

Finally, we realize you may not be able to answer all the questions; please let us know, and we will skip to the next question.

Implementation of the MED REF pilot project

1. Please briefly describe your role in the implementation and delivery of the MED REF project.
2. Based on your observations, has the project been implemented as planned? If not, why not? (Q1)
3. To what extent have any factors or stakeholders external to the project affected the implementation and success of the model? What challenges did these external factors present? What was done to resolve these challenges? (Q2)
4. In your opinion, does the project have sufficient resources and capacity for providing the expected level of services? Please explain why or why not. What steps has the project taken to overcome any resource challenges? (*Probe: enough staff, staff sufficiently trained, staff have all the needed tools.*) (Q4)
5. Has the staff involved in project delivery been appropriately prepared for their role in the project? If applicable, have they found the tools developed for the project to be helpful? (Q3)
6. How are potential clients made aware of the services provided under MED REF? To what extent are all relevant stakeholders referring potential clients to LSS intake as expected? What organizations are referring clients to LSS intake? (Q6)

7. Are appropriate cases being triaged and accepted for mediation? At what stage are clients being referred? (*e.g., prior to court proceedings, court action commenced, case conference, final order?*) Based on your observations, are cases being referred at the right time? Does the assessment, triage, and application process happen in a reasonable amount of time? What is the cause of delays (if any) prior to the mediation sessions? (Q7)
8. How are participants prepared prior to taking part in the mediation and are these preparations adequate? (Q9)
9. What types of family law supports do participants seek prior to, during, and after the mediation session? (*e.g., Family LawLine, Family Duty Counsel, private lawyers, Access Pro Bono, PLEI, online resources.*) How are these supports helping participants understand their legal rights and finalize their mediated settlement? (Q9)
10. Has the project encountered any challenges in its implementation or delivery and how were these challenges addressed? How did these challenges impact the overall implementation of the project? (Q1)

Progress towards achieving objectives

11. How far along are clients getting with the six hours of LSS funding? Are the services provided under this funding adequate to get clients far enough in the process to demonstrate the value in mediation? Based on your observations, how are the six hours of LSS funding contributing to increased access to mediation services for low-income clients? (Q8)
12. To what extent are clients resolving their family law matters through mediation? (*e.g., all, some, few, none.*) What types of barriers are preventing clients from resolving their family law matters? (Q11)
13. Are you able to comment on the extent to which mediation participants are satisfied with the mediation process? Are you able to comment on participant's satisfaction on the outcomes of the mediation? (Q10)
14. Based on your observations, have there been any unintended consequences as a result of the project to date? (Q12)
15. Do you have any suggestions about how the project could be improved?

**Legal Services Society of British Columbia
Family Mediation Referrals Pilot Project Evaluation**

Interview guide for external stakeholders

The Legal Services Society (LSS) of British Columbia requires an evaluation of the Mediation Referrals (MED REF) pilot project which has been implemented under the Justice Innovation and Transformation Initiative (JITI). LSS has hired PRA Inc., an independent research company, to assist in the evaluation. One component of the evaluation is to conduct telephone interviews with stakeholders who are familiar with the MED REF project.

The interview should take no more than one hour. The information we gather through the interviews will be summarized in aggregate form. With your permission, we will audio record the interview for the purpose of note-taking. No one outside of PRA will see your notes or hear your recording.

The current evaluation focusses on the implementation of the MED REF project to identify early issues and make recommendations to assist LSS management in improving/refining project implementation. This evaluation will also examine early indicators of success in meeting the project's objectives.

Finally, we realize you may not be able to answer all the questions; please let us know, and we will skip to the next question.

Implementation of the MED REF pilot project

1. Please briefly describe your role in the implementation and delivery of the MED REF project.
2. Based on your observations, has the project been implemented as planned? If not, why not? (Q1)
3. To what extent have any factors or stakeholders external to the project affected the implementation and success of the model? What challenges did these external factors present? What was done to resolve these challenges? (Q2)
4. In your opinion, does the project have sufficient resources and capacity for providing the expected level of services? Please explain why or why not. What steps has the project taken to overcome any resource challenges? (*Probe: enough staff, staff sufficiently trained, staff have all the needed tools.*) (Q4)
5. Has the staff involved in project delivery been appropriately prepared for their role in the project? If applicable, have they found the tools developed for the project to be helpful? (Q3)
6. How are potential clients made aware of the services provided under MED REF? To what extent are all relevant stakeholders referring potential clients to LSS intake as expected? What organizations are referring clients to LSS intake? (Q6)

7. Are appropriate cases being triaged and accepted for mediation? At what stage are clients being referred? (*e.g., prior to court proceedings, court action commenced, case conference, final order?*) Based on your observations, are cases being referred at the right time? Does the assessment, triage, and application process happen in a reasonable amount of time? What is the cause of delays (if any) prior to the mediation sessions? (Q7)
8. How are participants prepared prior to taking part in the mediation and are these preparations adequate? (Q9)
9. What types of family law supports do participants seek prior to, during, and after the mediation session? (*e.g., Family LawLine, Family Duty Counsel, private lawyers, Access Pro Bono, PLEI, online resources.*) How are these supports helping participants understand their legal rights and finalize their mediated settlement? (Q9)
10. Has the project encountered any challenges in its implementation or delivery and how were these challenges addressed? How did these challenges impact the overall implementation of the project? (Q1)

Progress towards achieving objectives

11. How far along are clients getting with the six hours of LSS funding? Are the services provided under this funding adequate to get clients far enough in the process to demonstrate the value in mediation? Based on your observations, how are the six hours of LSS funding contributing to increased access to mediation services for low-income clients? (Q8)
12. Are clients using the sliding scale rate provided by Mediate BC? Are you aware of cases where affordability was a barrier to completing mediation? (Q8)
13. To what extent are clients resolving their family law matters through mediation? (*e.g., all, some, few, none.*) What types of barriers are preventing clients from resolving their family law matters? (Q11)
14. Are you able to comment on the extent to which mediation participants are satisfied with the mediation process? Are you able to comment on participant's satisfaction on the outcomes of the mediation? (Q10)
15. Based on your observations, have there been any unintended consequences as a result of the project to date? (Q12)
16. Do you have any suggestions about how the project could be improved?

**Legal Services Society of British Columbia
Family Mediation Referrals Pilot Project Evaluation**

Interview guide for clients

Hello, my name is _____ and I'm calling from PRA, an independent research company.
May I speak to _____[client name]_____.

If NOT client

- ▶ Ask when would be the best time to contact _____[client name]_____?
- ▶ Provide your name and toll free phone number and ask if [client name] could call PRA back.
- ▶ If person asks what the call is about, only say that we wanted to speak to them about a service they received.

If client:

PRA was hired by LSS (also known as “Legal Aid”) to review the helpfulness of the Family Mediation Referral project that you participated in during the past half year or so

We could do the interview now or I could call you back at another time. It will take about 20 minutes. Your participation is voluntary. The information you provide may help LSS find ways to improve the Family Mediation Referrals project.

I won't ask you anything specific about your family matter, just about the services you received through the mediation referral project. Anything you tell me will be confidential; information from the interviews will all be combined and reported together, so no individuals will be identified and your information will not be shared outside of PRA, including with anyone else involved in your family matter.

Potential questions from client:

- **How did we get their information?**
 - Your contact information was provided by LSS (“Legal Aid”) as a participant in the mediation project; they believe your comments might help them improve the mediation project
- **Still concerned about confidentiality**
 - Reiterate information will not be shared outside of PRA, including with anyone else involved in their family matter. Ultimately, participation is voluntary.
- **Client wants confirmation that the interview is legitimate**
 - They can verify with Legal Aid by calling Neha Bangar at (604) 601-6056

Question 1 (Q6)

1. At what point in your family law matter did you find out about the mediation services provided through the Family Mediation Referrals pilot project? [CHOOSE ONLY ONE; DON'T READ UNLESS REQUIRE PROBING]

Before initiating court proceedings
After initiating court proceedings
Before reaching a written agreement?
After reaching a written agreement?
Before or after reaching a final order?)
Other (specify)
Don't know/can't recall

2. Who told you about these services? [DON'T READ UNLESS REQUIRE PROBING]

Legal Aid (LSS)
Friend or family
Family LawLINE
Family Duty Counsel
Other (specify)
Don't know/can't recall

3. Do you think you learned about these services early enough in your family matter?

Yes
No
Don't know/can't recall

4. [if Q1C= NO] When would've been a better time to learn about these services?

Other (specify)
Don't know/can't recall

5. [IF Q1C=NO] What would've been a better way for you to learn about these services?

Other (specify)
Don't know/can't recall

Question 2 (Q4, Q7)

- A. How would you rate the ease of the application process for mediation services? [READ RESPONSES]

Very easy
Somewhat easy
Somewhat difficult
Very difficult
Don't know/can't recall

B. [if Q2A=somewhat or very difficult] What made the application process difficult?

Other (specify)
Don't know/can't recall

C. How satisfied were you with the amount of time between the application process and receiving the results of your application for mediation? [READ RESPONSES]

Very satisfied
Somewhat satisfied
Somewhat dissatisfied
Very dissatisfied

D. [if Q2C=if somewhat or very dissatisfied] Why were you dissatisfied with the amount of time between the application process and receiving the results of your application?

Other (specify)
Don't know/can't recall

E. Were you satisfied with the amount of time between your application being approved and the beginning of the mediation sessions? [READ RESPONSES]

Very satisfied
Somewhat satisfied
Somewhat dissatisfied
Very dissatisfied
Don't know/can't recall

Question 3 (Q9)

A. Prior to meeting with the mediator, did you receive information that explained the mediation process? This might include LSS explaining the mediation process to you, or could include providing booklets, pamphlets, or websites that explain the mediation process?)

Yes – (comment) probe: how were you informed of the mediation process?

No – (comment) _____

Don't know/can't recall

B. Do you think you received enough information to help you in deciding whether to participate in mediation?

Yes
No
Don't know/can't recall

- C. [If Q3b=no] Why do you believe you didn't receive enough information or support to help you decide whether to participate in mediation?

Other (specify)

Don't know/can't recall

Question 4 (Q8)

- A. How far did you get in the mediation process with the free six hours provided by the Legal Services Society? *[IF THEY ARE UNSURE, ASK THEM TO DESCRIBE WHAT HAPPENED WHEN THEY MET THEIR MEDIATOR] (SINGLE RESPONSE)*

Pre-mediation meeting (e.g., *meeting one-on-one with the mediator before beginning mediation; could be in person, or could be via phone/video conference*)

Mediation meetings? (e.g., *could be 'joint mediation' meetings where both parties are in the same room as the mediator or participating simultaneously via phone or video conference, or could be 'shuttle mediation' where the parties are in separate rooms and the mediator facilitates by going between the parties*)

Other (specify)

- B. Was it enough time to narrow your family law issues? By narrow, we mean reducing the number of contentious issues to be addressed

Yes

No

Don't know/can't recall

- C. [SKIP TO Q5A if Q4A=Premediation meeting] Was it enough time to resolve your family law issues? (*probe: did they resolve all, some, a few, none?*)

Other (specify)

Don't know/can't recall

Question 5 (Q8)

- A. Did you use all of available six hours provided by Legal Aid?

YES

NO [skip to Q6]

DK [skip to Q6]

- B. Did you continue with mediation after the free six hours were done?

YES

NO

DK

- C. Why or why not? (*DON'T READ RESPONSES*) [NOTE TO INTERVIEWER: respondent might mention that the mediator calculated a rate based on respondent's and other party's income and assets – this is called the sliding scale)

Resolved all issues / no need for additional mediation
Mediation was not progressing / no reason to continue
Sliding scale was affordable (to both parties)
Respondent could not / would not pay sliding scale rate
Other party could not / would not pay sliding scale rate
Other (specify)
Don't know/can't recall

Question 6 (Q10)

- A. Were there any parts of the mediation process that seemed unclear or were not explained well enough? (*This could include making contact with the mediator, pre-mediation meetings, joint mediation meetings, shuttle mediation, video or teleconferencing*)

Yes – (comment) _____
No – (comment) _____
Don't know/can't recall

Question 7 (Q10, Q11)

- A. How satisfied were you with the results of the mediation process? [READ RESPONSES]

Very satisfied
Somewhat satisfied
Somewhat dissatisfied
Very dissatisfied
Don't know/can't recall

- B. Why were you [satisfied / not satisfied] with the results of the mediation process?

Other (specify)
Don't know/can't recall

B2 Did your mediation result in a written agreement (e.g, memorandum of understanding (MOU); draft separation agreement, some other written agreement)

YES
NO [SKIP TO Q8]
DK [SKIP TO Q8]

- C. Did you use a lawyer to review the agreement resulting from your mediation? If so, from where did you receive these services? (SINGLE RESPONSE)

Did not use lawyer to review the agreement

Family LawLine

Family Duty Counsel

Private lawyers

Other (specify)

Don't know/can't recall

- D. [if Q7C=did not use lawyer] Why did you not use a lawyer to review the agreement that resulted from your mediation?

Other (specify)

Don't know/can't recall

- E. Thinking of the agreement you reached as a result of the mediation process, what is the likelihood these agreements will need to be revisited in court at a later date?
[READ RESPONSES]

Very unlikely

Somewhat unlikely

Somewhat likely

Very likely

Don't know

Question 8 (Q9)

- A. At any point, *before or during* the mediation, were you referred by Legal Aid or the mediator to other family law services or resources? This could have been to receive legal advice, mediation coaching, or other assistance in the mediation process. If so, which resources did you use? [SELECT ALL THAT APPLY]

No referral to other family law services/resources [skip to Q9A]

Family LawLine

Family Duty Counsel

Private lawyers

Access Pro Bono

Legal Aid website

Other online resources

Other

Don't know/can't recall

- B. How helpful were these resources in providing legal advice, mediation coaching, or other assistance in the mediation process? [READ RESPONSES]

Very helpful
Somewhat helpful
Somewhat unhelpful
Very unhelpful
Don't know/can't recall

Question 9 (Q11)

- A. How are you resolving the family law matters that were not resolved through the family mediation process?

Not applicable, all matters were resolved through mediation
Resolve the remaining matters out of court (e.g., negotiate with other party)
Resolve the remaining matters in court
Drop the unresolved matter(s) / hope other party drops unresolved matter(s)
Other (specify)
Don't know/can't recall

- B. [only if Q9A = resolve in court] How many times have you appeared before a judge **after** the mediation?

None, have not attended court yet
Don't know/can't recall

- C. [only if Q9A = resolve in court] How many times did you appear before a judge **prior** to mediation?

None, did not attend court prior to mediation
Don't know/can't recall

- D. [only if Q9A = resolve in court] To what extent do you think mediation helped reduce the number of issues to be addressed in court?

Reduced many issues
Reduced some issues
Reduced a few issues
Reduced no issues
Don't know/can't recall

- E. [only if Q9A = resolve in court] To what extent do you think mediation will help / has helped reduce the amount of time spent in court?

Reduced a large amount of time
Reduced a small amount of time
Did not reduce any time in court
Don't know/can't recall

- F. [only if Q9A = resolve in court] Will you / did you use a lawyer in court or will you / did you self-represent?

Lawyer
Self-represent
Other (specify)
Don't know/can't recall

- G. [if Q9F=self-represent] What kind of assistance did you receive / will you seek to prepare you to self-represent in court? [SELECT ALL THAT APPLY]

Family LawLINE
Family Duty Counsel
Online resources
Community agency
Other (specify)
Don't know/can't recall

Question 10

- A. What would you have done without the mediation services provided through this program? [DON'T READ UNLESS REQUIRE PROBING, single response]

Hire your own lawyer,
Represent yourself on your own with no help,
Try another way to resolve the matter out of court
Drop the matter entirely
Other (specify)
Don't know/can't recall

- B. What, if anything, would you improve about the services you received under the Family Mediation Referrals pilot project?

Other (specify)
Don't know/can't recall