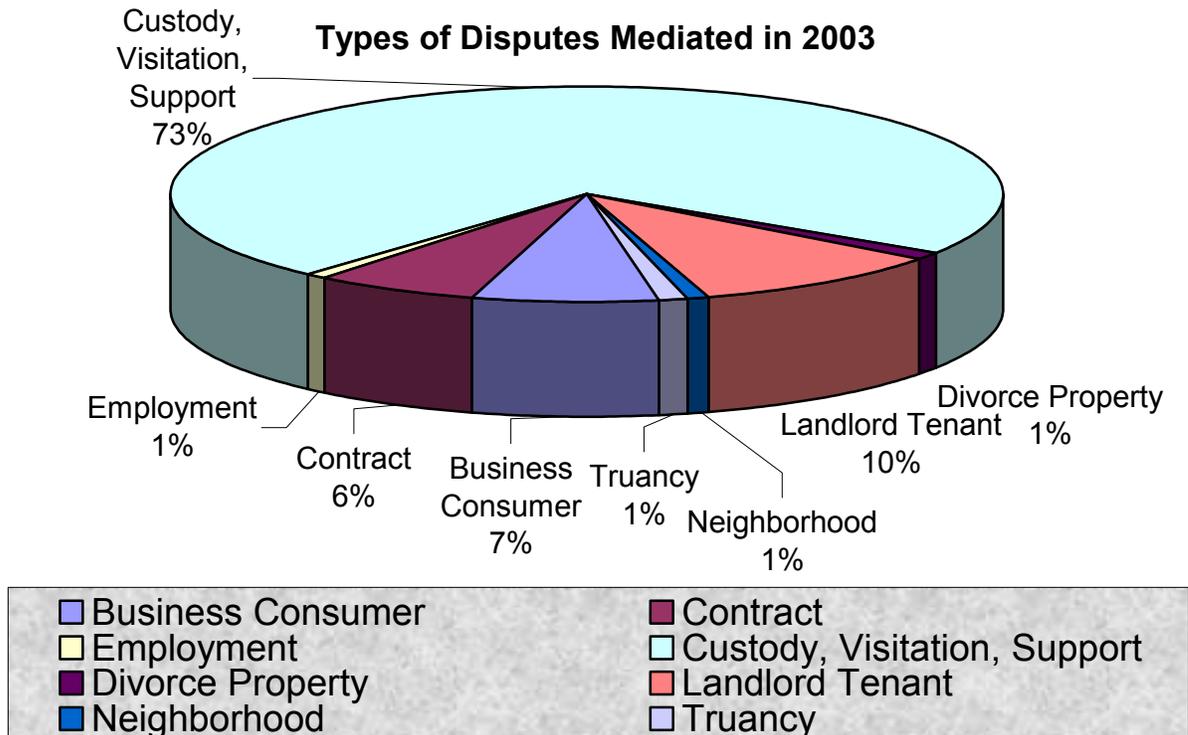


Mediation Information System Reports

In an effort to support and advance the field of alternative dispute resolution, it is critical that information regarding the mediation services provided to the courts be captured. In order to capture relevant data for purposes of creating informational reports, a new Mediator Information System (MIS) was developed by the IT Department of the Office of the Executive Secretary on the Internet. This MIS program can be found on the Supreme Court of Virginia's home page at www.courts.state.va.us.

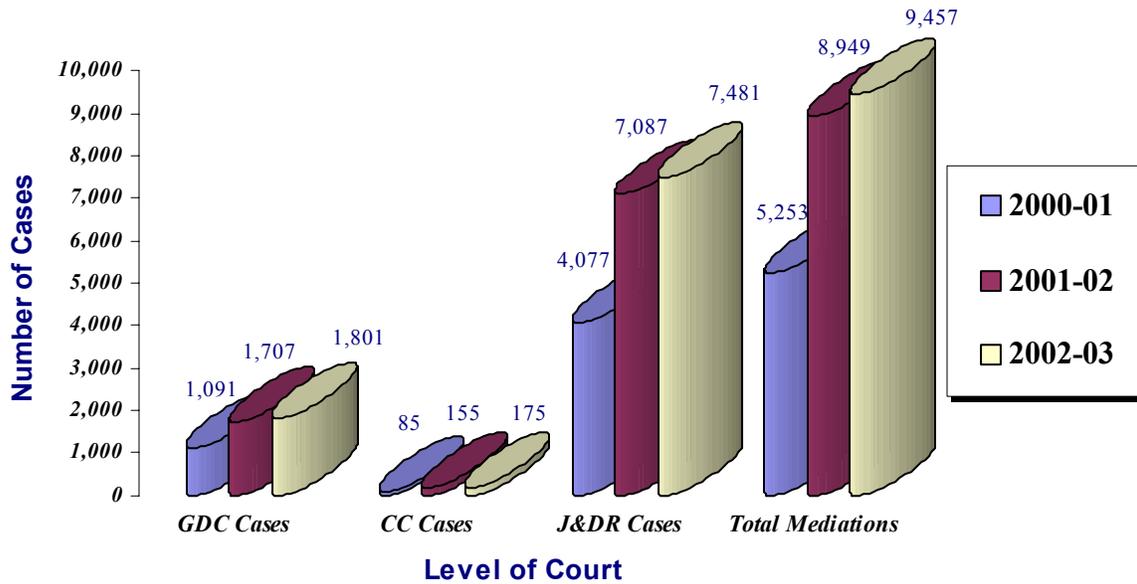
In short, mediators are given a unique passcode, which must be typed in before data may be entered into the system. Following every court-referred mediation, mediators are asked to input data into this system regarding the mediations conducted. The entry of data is voluntary, but the hope is that all mediators providing services to the courts will take the time to enter information into this system as it will be a more accurate information system and the reports generated from this system will benefit the entire dispute resolution community. Data entry is mandatory for those holding a contract with the Supreme Court to provide mediation services to the courts.

Mediators entering data after each mediation are asked to indicate the type of dispute mediated by choosing one of several categories. The first chart illustrates the breakdown of the cases entered in 2003 in MIS. It is interesting to note that more than half (73%) of the cases reported are custody, visitation and support (CVS) mediations.



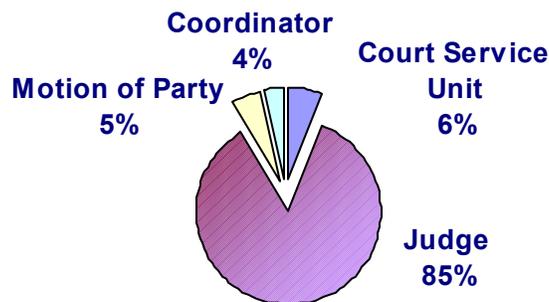
The graphs that follow illustrate that J&DR District courts are referring many more cases to mediation than the General District and Circuit Courts at this point in time. It is clear,

however, that each year more of the non-CVS cases are receiving referral to mediation. The next graphic depicts a three-year summary of the numbers of court-referred mediations in each level of court. As the key explains, the statistics cover the fiscal years of 2000-2001, 2001-2002, and 2002-2003.

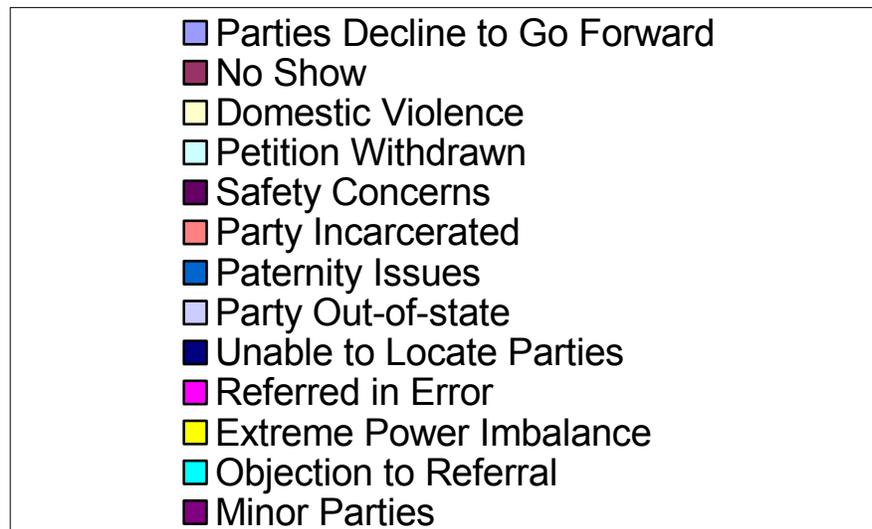
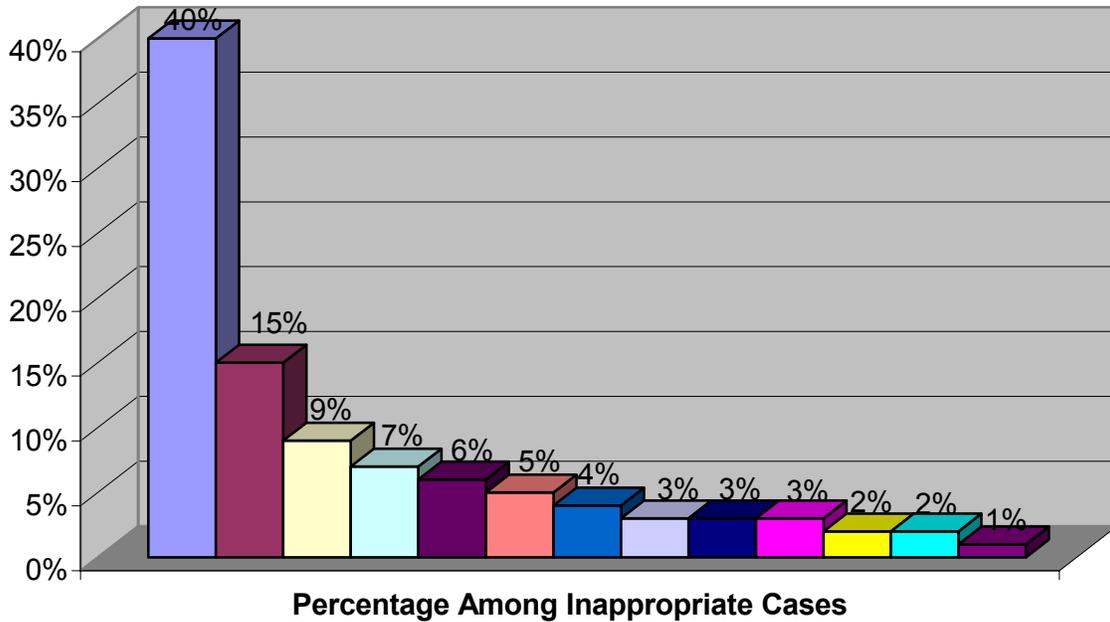


The following reports have been created using data drawn from the MIS system. The data reflects only the information that has been entered by mediators, unless otherwise noted.

Method of Referral to Mediation

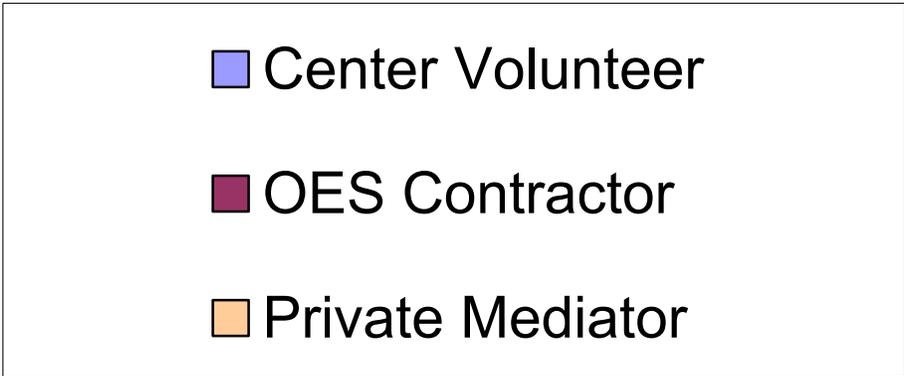
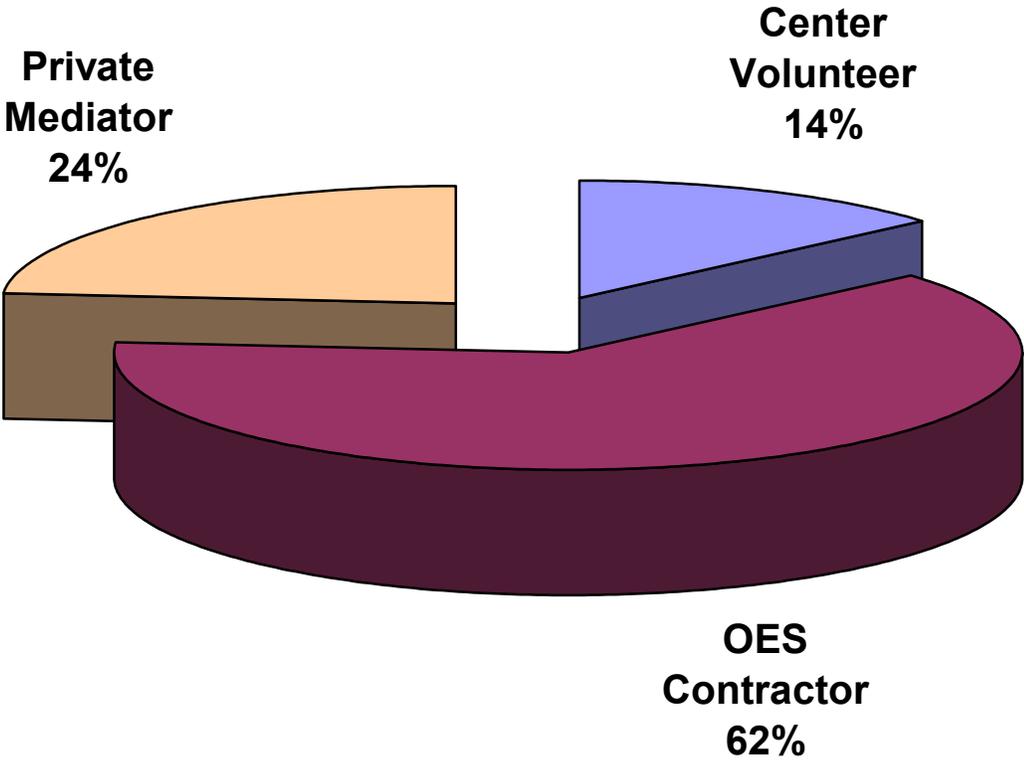


Reasons Mediation Does Not Go Forward

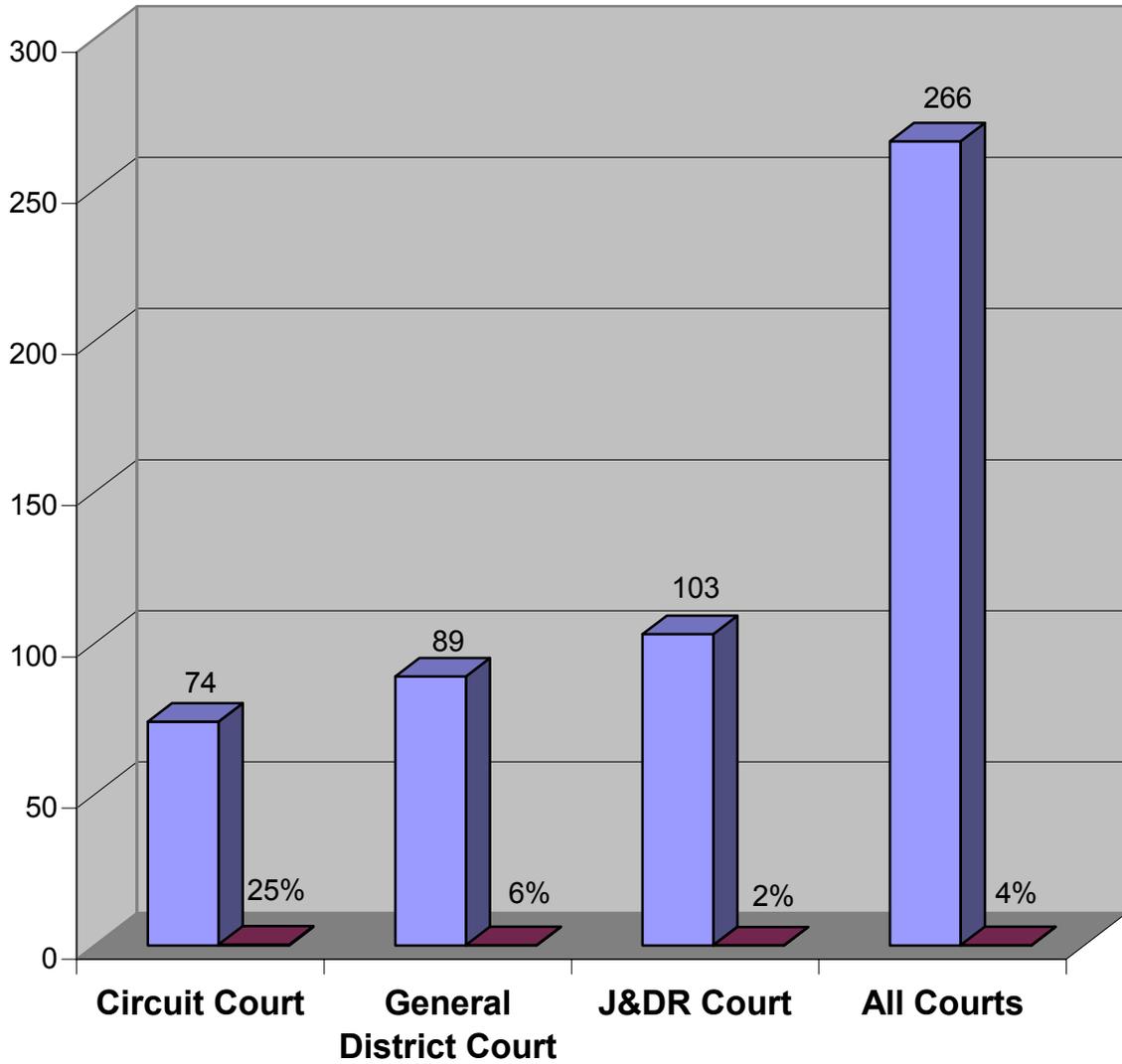


In approximately 9% of cases, the mediation process did not go forward.

2003 Case Breakdown by Mediator Status



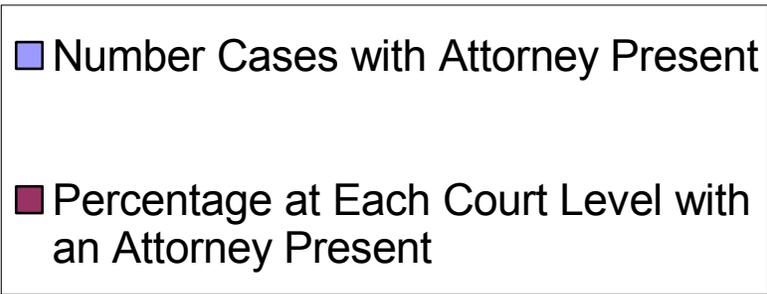
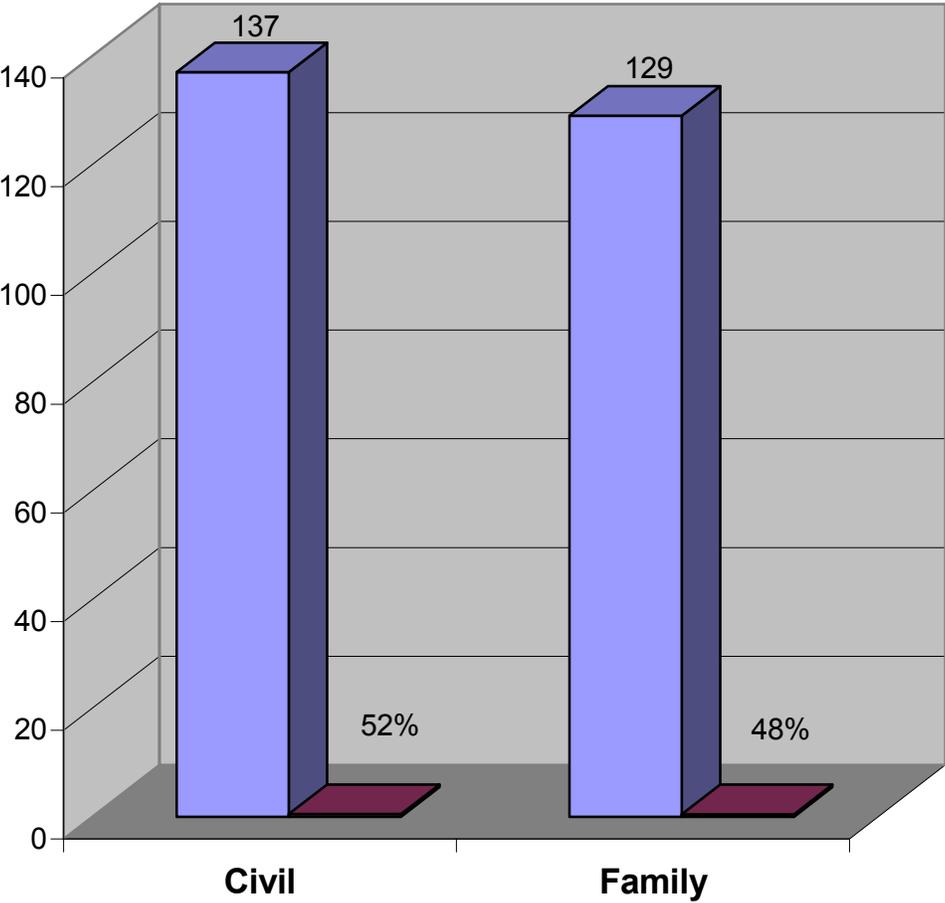
Mediations Where an Attorney Was Present



■ Number of Cases With an Attorney Present

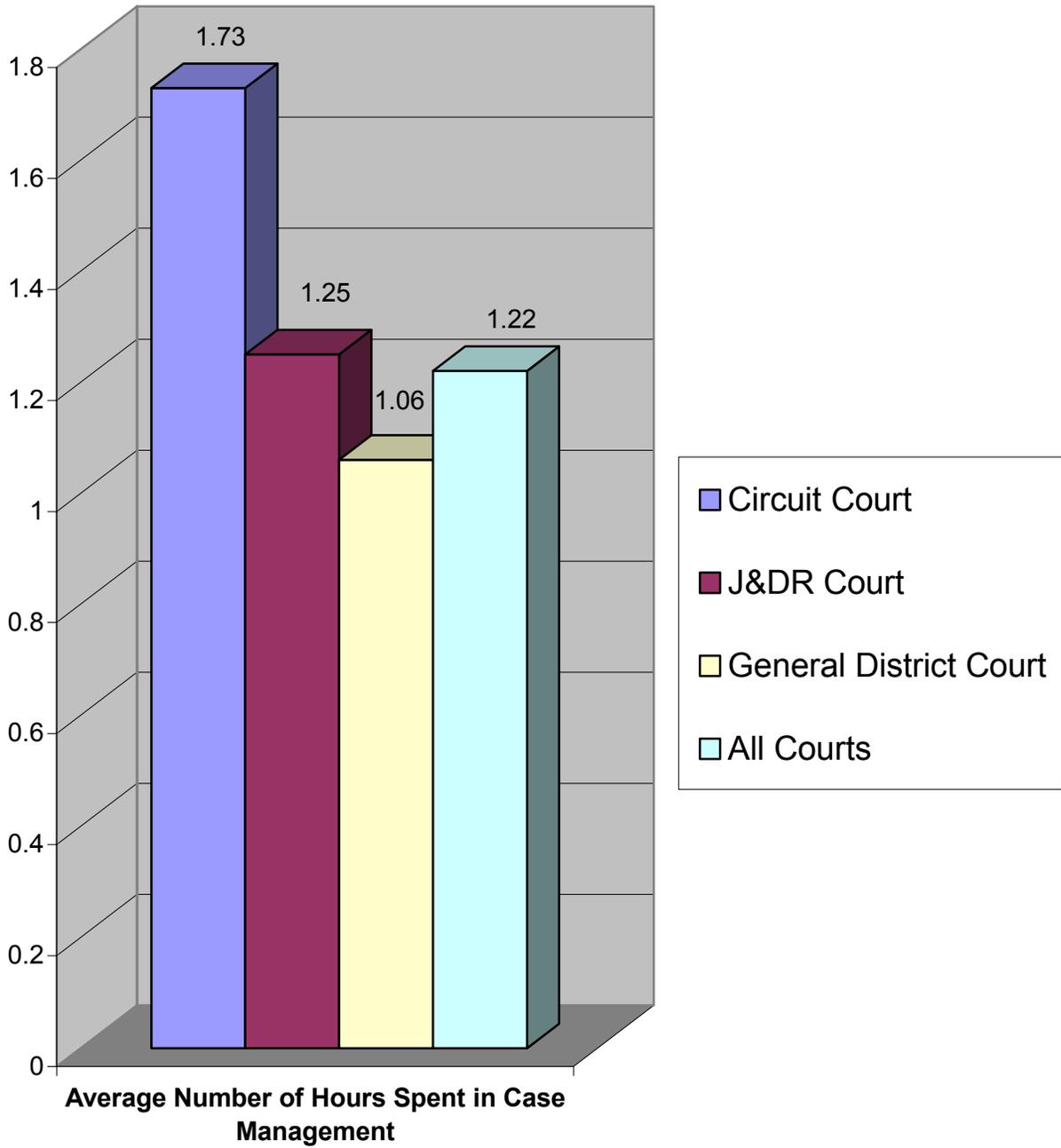
■ Percentage of Mediations at Each Court Level Having an Attorney Present

Mediations Where an Attorney Was Present by Case Type

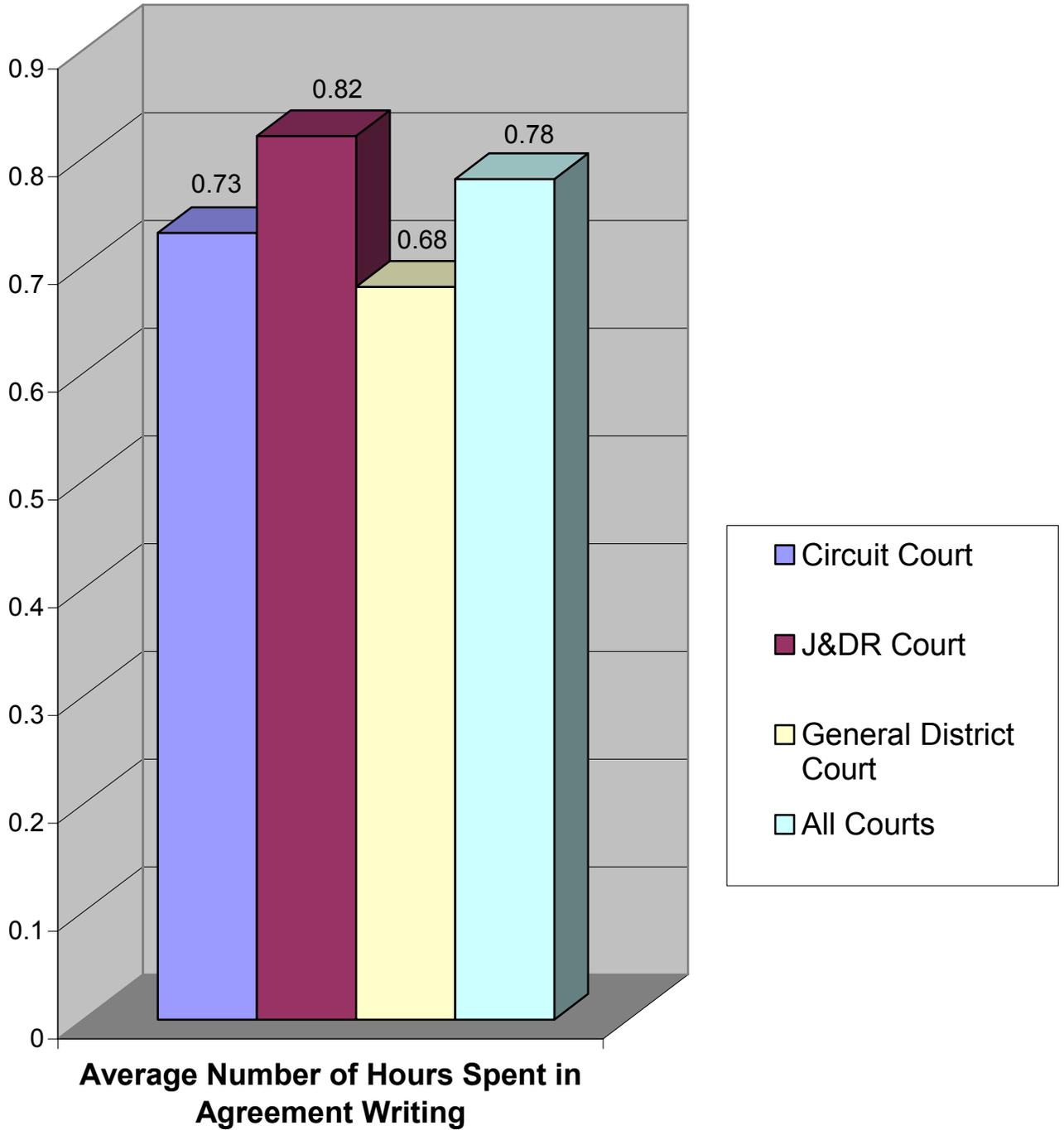


Please note that the percentage of civil cases with an attorney present (52%) is only slightly higher than the percentage of family cases (48%) where an attorney was present.

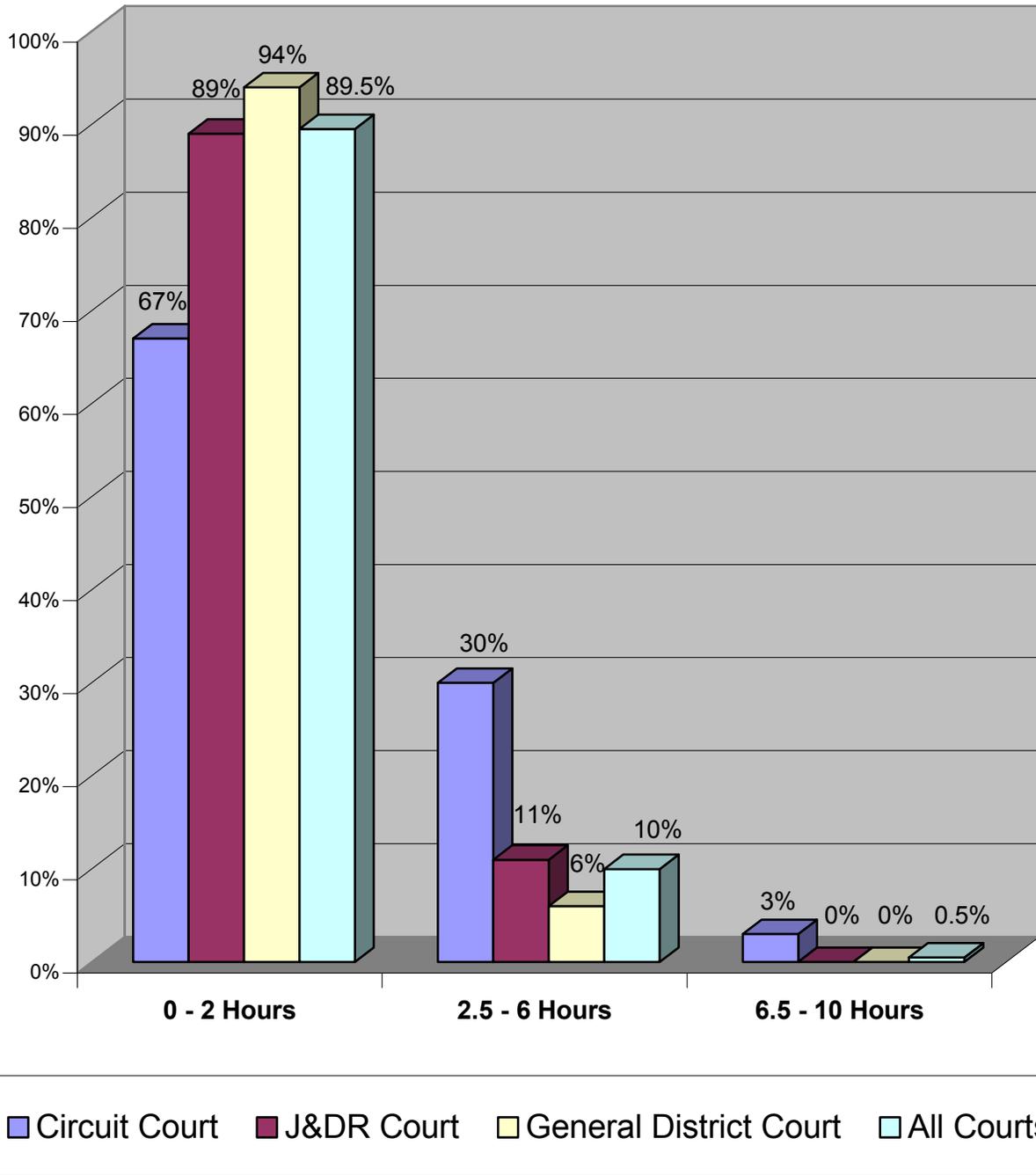
Hours Spent in Case Management



Hours Spent in Agreement Writing

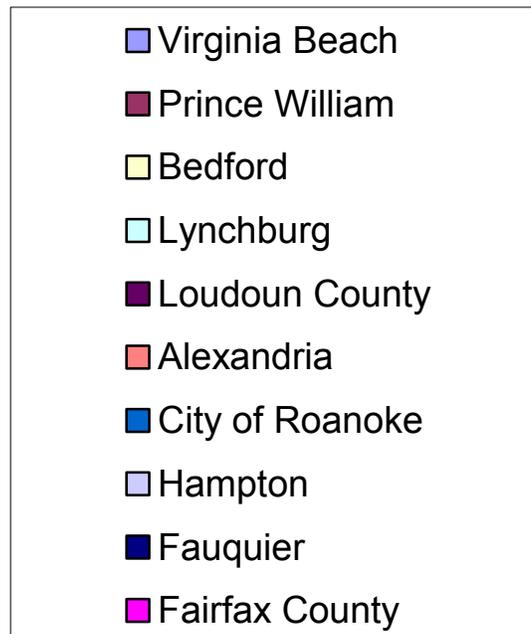
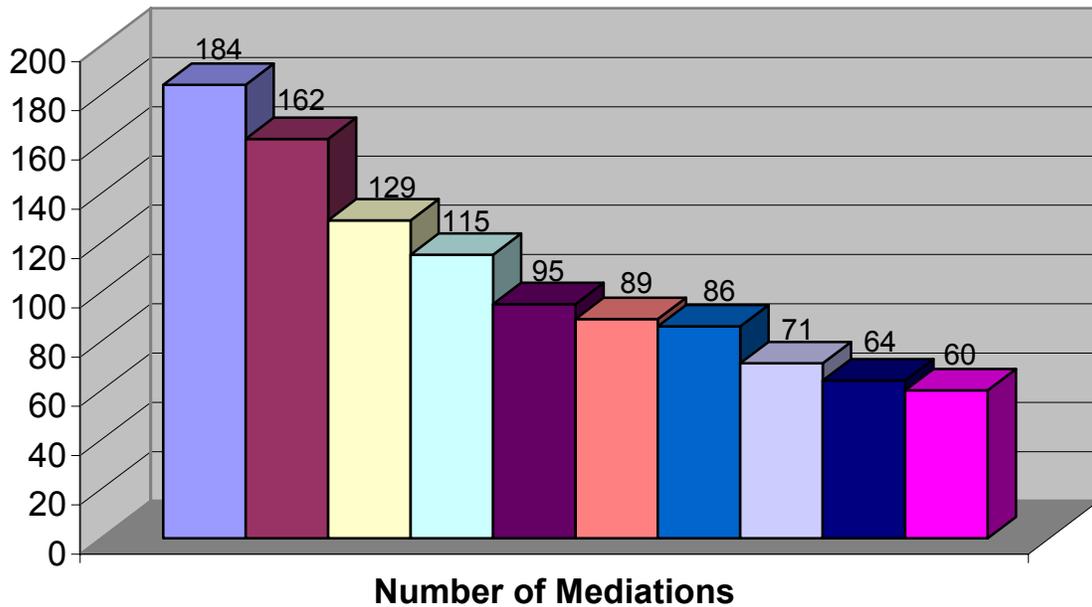


Average Time Spent in Mediation

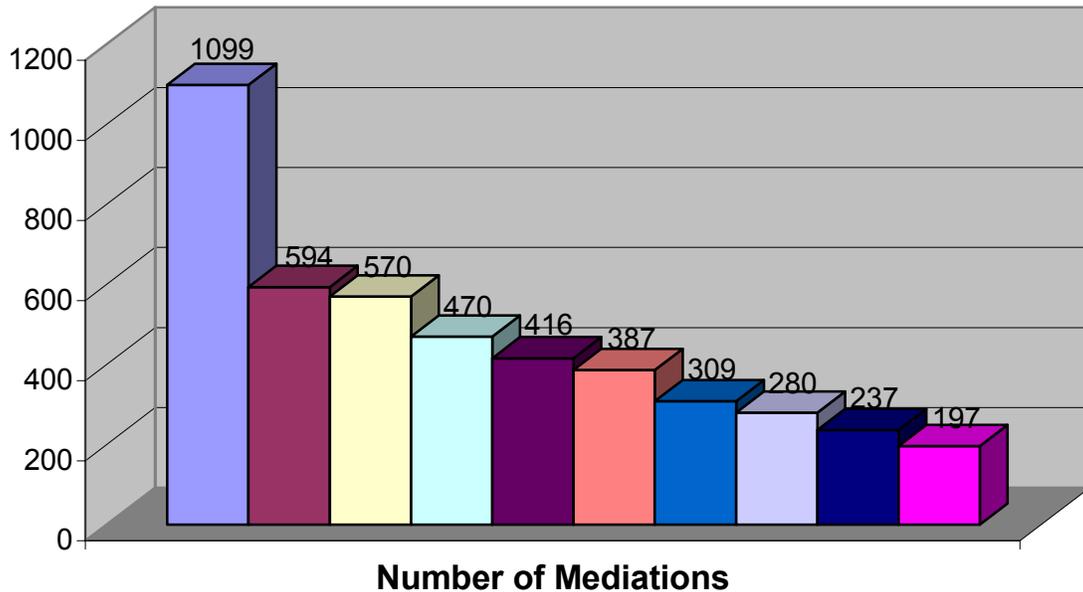


Please note that the cases counted above in the 0-2 hours category include those where the parties could not be reached or parties did not show for mediation. This would account for approximately 1.6% of all mediations, so the results depicted above would not be greatly affected.

General District Courts Mediating Most Cases Based on 2003 MIS Data

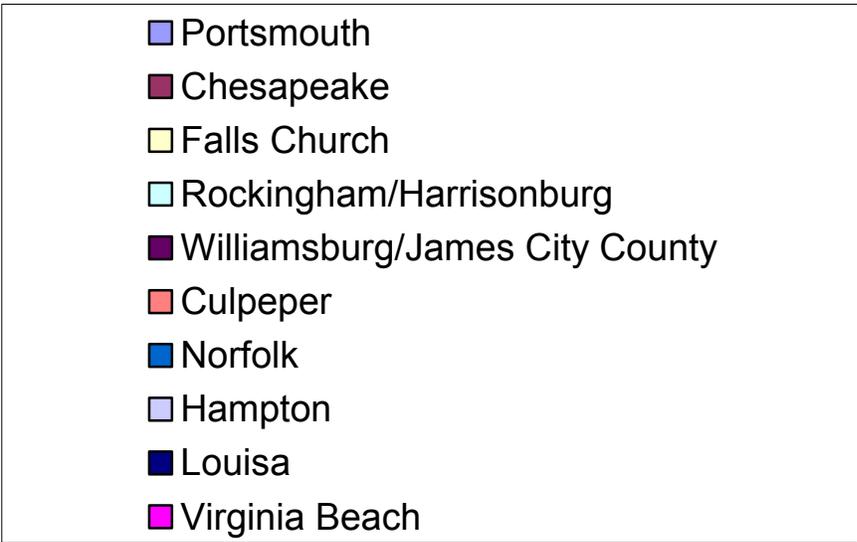
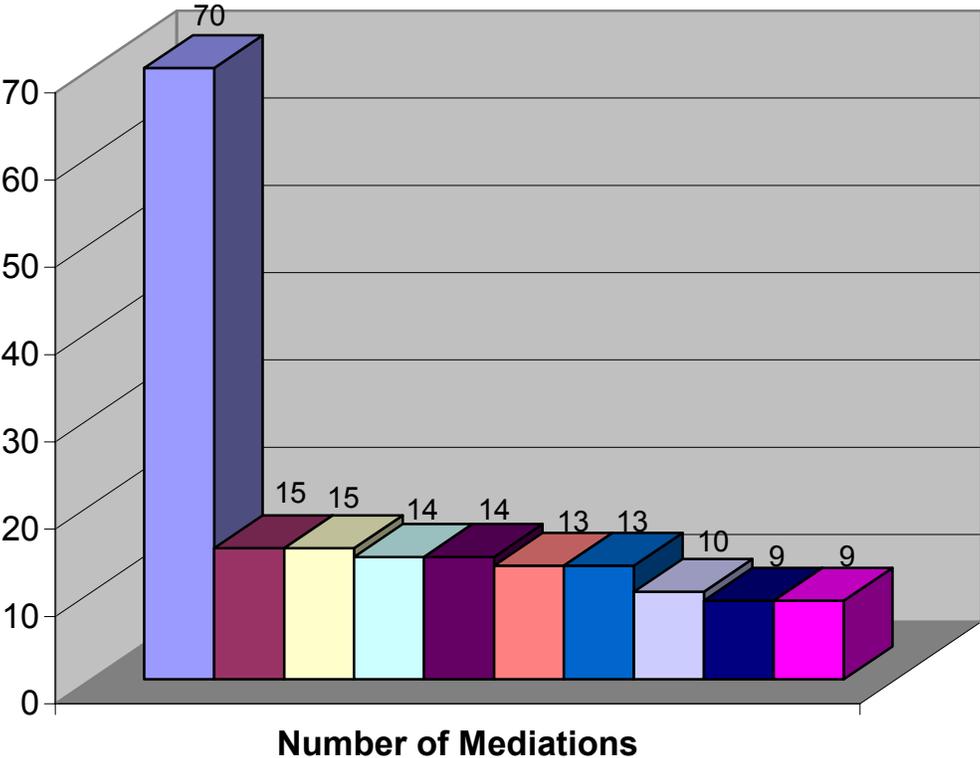


J&DR Courts Mediating Most CVS Cases Based on 2002-2003 Fiscal Year Records

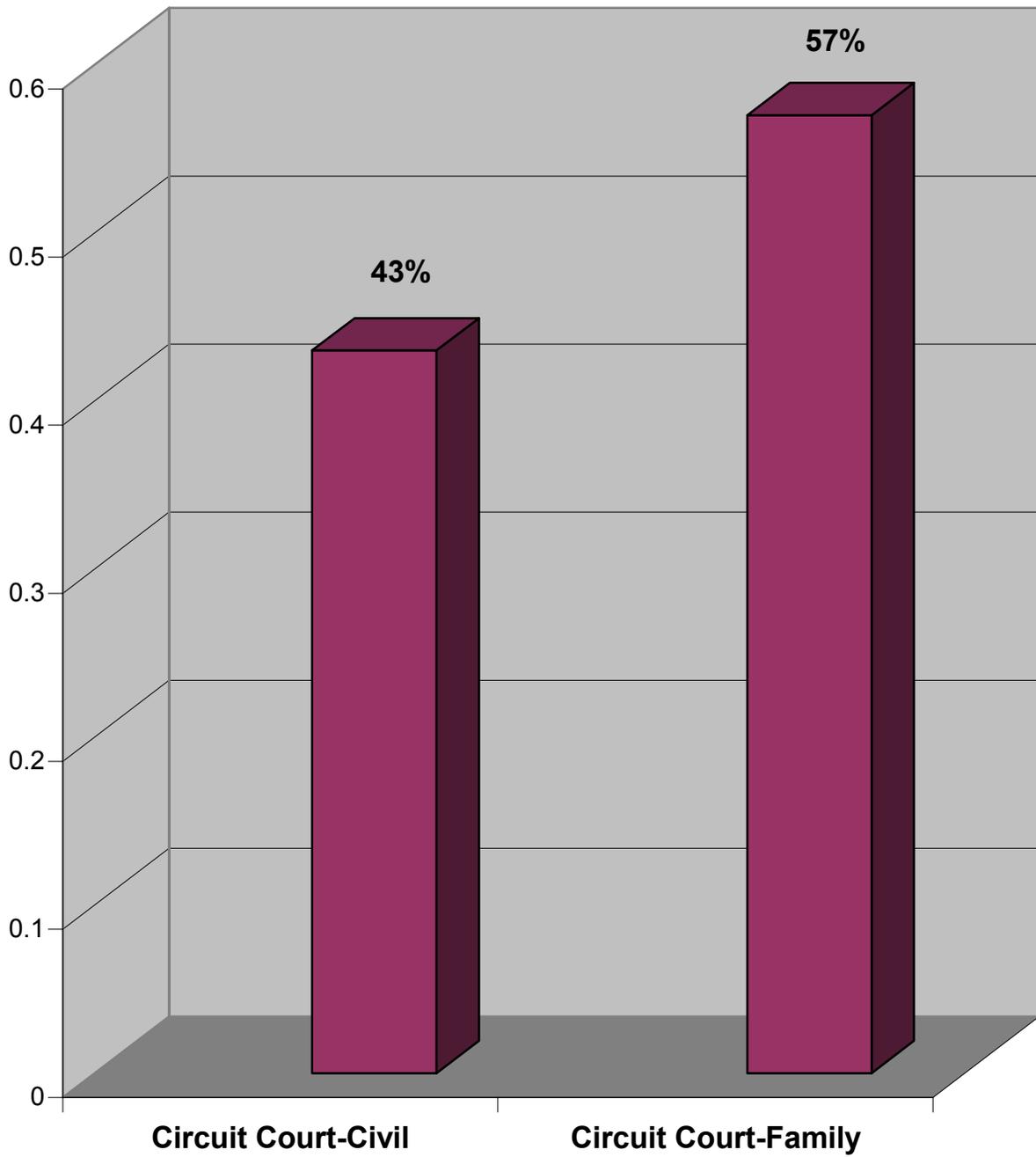


Statistics gathered for this chart are taken from Fiscal Services payment records for the 2002-2003 fiscal year rather than data entered in the MIS database during the 2003 calendar year.

Circuit Courts Mediating Most Cases According to 2003 MIS Data



Breakdown of Civil and Family Cases Mediated in Circuit Court in 2003



March is Virginia Mediation Month

Governor Mark Warner has issued a Certificate of Recognition, proclaiming March as Mediation Month in Virginia. In celebration of March as Mediation Month, several of our mediation centers are hosting special events in their communities. We will be sharing photos and descriptions of those celebrations in our June issue.

The Mediation Center of Hampton Roads has invited the community to “Celebrate Mediation Month” at their new office on March 30th. The Community Mediation Center in Harrisonburg will also celebrate March as Mediation Month in their community with a dinner on March 26th. Dorothy Della Noce is their guest speaker. Piedmont Dispute Resolution Center in Warrenton has scheduled their annual dinner for March 31st. Tom Dunne of Search for Common Ground-USA is their guest speaker and they will be showcasing all of their programs and, in particular, their community solutions program.

The Virginia Mediation Network’s Public Relations/Marketing Committee has placed on their website for VMN members a Mediation Month Public Relations Kit to assist members in recognizing the month. The kit is appropriate, however, as a tool to promote mediation at any time of year. It can be tailored to any number of groups including the media, civic organizations, local associations, institutions and governing bodies such as bar associations, advisory boards, school boards, town councils and board of supervisors, etc. The kit contains:

- Governor Warner’s proclamation recognizing March as Mediation Month
- A proclamation from Fauquier County to assist you in drafting a local proclamation
- A reproducible Virginia Mediation Month flyer/poster
- Idea list for community involvement
- Handout/flyer on listening which can be customized
- Six press releases (including two sidebars)
- Feature story idea list
- Two radio public service announcements

Because the media can get the word out faster to a greater number of people, much of the packet has been designed as if it were a press kit. Don’t, however, let that deter you from handing it out to other interested individuals or groups. In addition, the press releases can be incorporated into speeches and presentations. VMN also recommends that, for best results, you pay a visit to your local newspapers and broadcast stations and talk one-on-one with the editors and producers. The best way to get good publicity is to make the job as easy as possible for the media. In addition to information in this packet, ask them what more they need in order to write about mediation and your program. They’ll be happy to tell you!

The Office of the Executive Secretary would like to learn from you about any efforts across the state to promote mediation in your communities during March as Mediation Month. Photographs of your events and descriptive summaries would be welcome and will be featured in our June issue of *Resolutions*.



CERTIFICATE of RECOGNITION

By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, there is hereby officially recognized:

MEDIATION MONTH

WHEREAS, resolving conflicts through mediation and other forms of alternative dispute resolution (ADR) promotes mutually agreeable outcomes, preserves relationships and enhances the climate of cooperation among individuals and organizations; and

WHEREAS, the benefits of mediation include avoiding the costs of contesting and defending disputes, arriving at faster solutions by avoiding lengthy and contentious disagreements and achieving balanced results by integrating divergent goals through collaborative processes; and

WHEREAS, the Department of Dispute Resolution Services of the Office of the Executive Secretary of the Supreme Court of Virginia supports mediation and other alternatives to adjudication through the funding and oversight of court-annexed services, certification of mediators and other related programs; and

WHEREAS, the Virginia Administrative Dispute Resolution Act has progressed since its recent enactment by the General Assembly, under the leadership of a broadly represented Council of Executive Branch state agencies and institutions, with agencies increasingly using mediation and other ADR processes to heighten efficiencies, enhance results and minimize costs; and

WHEREAS, statewide professional organizations such as the Virginia Mediation Network, the Virginia Chapter of the Association for Conflict Resolution, the Virginia Association for Community Conflict Resolution and the Virginia Joint Alternative Dispute Resolution Committee of the Virginia State Bar and the Virginia Bar Association continue to provide services, educational opportunities and other resources to promote the use of mediation and ADR and to enhance the public's understanding of these tools for resolving conflicts;

NOW, THEREFORE, I, Mark R. Warner, do hereby recognize March 2004 as **MEDIATION MONTH** in the **COMMONWEALTH OF VIRGINIA**, and I call this observance to the attention of all our citizens.



Mark R. Warner
Governor

Anita A. Rinker
Secretary of the Commonwealth

Study of Recidivism in Mediated Domestic Relations Cases

The ability of parties to develop an agreement that meets their needs is often identified as a key advantage of mediation. Mediation advocates go further to note that parties are more likely to adhere to a mediated agreement because *they* created it, as opposed to a decision that is ordered by a court. To date there has been little research on the recidivism rate of cases that are mediated versus adjudicated. In an effort to evaluate whether cases that are mediated are less likely to return to court, a study of cases mediated in 1998 in the Richmond Juvenile and Domestic Relations District Court was conducted.

In 1992, the Office of the Executive Secretary received two grants to develop and implement pilot mediation programs in Prince William County and Richmond. The Virginia Law Foundation funded the Richmond pilot. The program began at the request of Circuit Judge Melvin Hughes and other judges who believed that many cases could be resolved by allowing disputants to discuss the conflict, express their needs and explore a variety of options for resolution. The Dispute Resolution Coordinator, Carol McCue, moved from the Circuit Court to the Juvenile and Domestic Relations District Court in 1994.

Cases from the year 1998 were selected to be reviewed because the mediation program in Richmond J&DR Court had matured by that point in time, a protocol for identifying appropriate cases for mediation had been established, and a consistent method of referral to mediation had developed under the guidance of Carol McCue. In addition, starting at that point in time made it possible to follow the history of these cases for at least five years after the initial court visit. The Office of the Executive Secretary is grateful to Ms. McCue for her assistance and permission to review mediation case files from 1998. It must be noted that the mediation files as well as case management data entered by clerks were not maintained for statistical analysis purposes. This study reflects as accurate a representation of the data sought given the information available.

Of the custody, visitation and support cases filed in 1998, approximately 50% of the cases were inappropriate for mediation. Some general reasons cases are identified as inappropriate include: one party is incarcerated, one party lives out of state, a protective order is in place, one party is a minor parent, both parents are not listed on the petition or motion, a GAL was appointed by the court for the child previously, a party is in drug rehabilitation, there is a current Child Protective Services investigation, paternity is at issue, or the Department of Child Support Enforcement is handling the support matter. 498 of the cases were identified as appropriate for mediation and referred to a dispute resolution orientation session. Of the appropriate cases, 298 attended an orientation session and 200 chose not to attend an orientation session. In short, 60% of the cases identified as appropriate for mediation attended an orientation session and 40% of the cases identified as appropriate for mediation did not attend an orientation session and instead went to trial.

All of the 298 cases that attended an orientation session proceeded voluntarily to mediation. Of the 298 cases mediated, 248 (83%) were successful. For purposes of this study, a successful mediation is one in which an agreement is reached. An agreement was not reached in 50 cases and they were later adjudicated (17%). 55% of the cases that reached agreement in

mediation, never returned to court. In cases where parties did not reach an agreement in mediation and went on to adjudication, 63% did not return to court. Of the cases that were mediated (both successfully and unsuccessfully), 43% returned to court on issues related to custody, visitation or support. (A significant number of juveniles returned to court on several occasions following mediation and adjudication for criminal matters. These court returns were not included in this study.)

Of those cases returning to court following mediation, 24 cases returned to mediation and 105 cases returned to adjudication. The average number of times parties who had been through mediation returned to court is two times. The greatest number of times parties returned to court following mediation is five times. The average number of days following mediation that parties returned to court for the first time is 513. 57% of the cases mediated, both successfully and unsuccessfully, never returned to court.

In cases that were adjudicated, 52% returned to court on issues related to custody, visitation or support. The average number of times parties returned to court following an initial adjudication is two. The greatest number of times parties returned to court following adjudication is four times. The average number of days following adjudication that parties return to court for the first time is 562. The overall average of days that parties return to court following either mediation or adjudication is 586 days. 48% of the cases adjudicated did not return to court.

This study anticipated providing some evidence that mediation leads to lasting agreements, thereby reducing the likelihood that parties post-mediation would return to court. The results of this study do not support this hypothesis. The research indicates that 43% of all mediated cases returned to court over the span of five years. This is only slightly smaller than the percentage of cases returning to court post adjudication – 52%. Parties returned on average to court at least twice post mediation and post adjudication.

The research does indicate that where parties attend the dispute resolution orientation session, they are very likely to attend mediation. When parties attend mediation, over 80% of the parties reach an agreement. Court-referred mediation often involves more than one petition. For example, a mediation involving the custody and visitation of two children is equivalent to four petitions as a petition is filed for each child on each issue. As a result, in any successful mediation, multiple petitions are being resolved. The time and money saved in terms of cases removed from the docket due to successful mediations as well as post-mediation hearings is significant.

This study demonstrates that while mediation is a good process for the resolution of disputes, it does not necessarily preclude the need for parties to revisit matters where there is a continued relationship. The nature of custody, visitation and support cases lends itself to re-litigation due to changes in parents' circumstances as well as the fact that as children grow, their needs change. Given the case type that was studied here, the recidivism rate of 43% post mediation is not surprising. The issue of recidivism in mediated cases should be studied in rural, urban and suburban jurisdictions to determine whether similar findings would be noted.

Virginia Chapter of ACR Hosts Conference

The Virginia Chapter of the Association for Conflict Resolution's annual meeting, March 29, 2004, coincides with the start of the 2004 National Youth Violence Prevention Campaign, in which the Chapter is involved. Co-sponsored by the Restorative Justice Association of Virginia and with participation from community mediation centers and others, the ACR Virginia Spring Conference will provide training in restorative justice and peer mediation and demonstrate how such programs can help address the critical issue of youth violence in Virginia schools and communities. In addition, CEO, David Hart, will provide an overview of developments at ACR International. The meeting will culminate with a wine and cheese social hour sponsored by member Blanton Massey.

The meeting place is the Central Rappahannock Regional Library Headquarters Annex at 1201 Caroline Street in historic downtown Fredericksburg. It has been approved by the Office of the Executive Secretary for seven hours of general continuing mediator education credit.

ACR Virginia's Youth Violence Prevention Initiative

Individual members of the Virginia Chapter can support the National Youth Violence Prevention Campaign in two important ways:

1. by serving as conflict resolution resources for schools in their communities; and
2. by contributing to the Virginia Chapter's Paul Berry Youth Fund.

The fund was established in 1999 as a memorial to Paul Berry, a graduate of George Mason University's Institute of Conflict Analysis and Resolution, a long-time SPIDR and ACR Virginia member, a patient and compassionate mentor, an enthusiastic supporter of youth programs in conflict resolution, and an exemplary friend. With grants from the Paul Berry Youth Fund, chapter members under the age of 21 can defray their conflict resolution training costs or provide seed money for their conflict resolution projects. The Virginia Chapter Board of Directors will award scholarships throughout the year.

For information on the annual meeting, the youth fund, or membership in Virginia ACR, contact Susan Sheets, Chapter President, at 703-605-0037.

Northern Virginia Student Mediation Conference

On March 8th and 9th, the 12th Annual Northern Virginia Regional Student Mediation Conference was held at George Mason University. Over 1000 were in attendance on the elementary school day, March 8th, and around 900 participated from middle and high schools on March 9th. *(Attendance would have been even higher, particularly on March 9th, except that the date conflicted with Standards of Learning Tests which many schools had scheduled for that*

date.) The Pathways to Peace Conference theme emphasized that conflict resolution skills provide the power to make a difference. During the workshops, participants explored how student mediators can utilize their skills in mediation, communication, teamwork, listening, trust, respect and anger management to help guide their peers towards the peaceful resolution of conflict.

The March 8th conference, for elementary schools, began with introductory remarks from Mrs. Kathy Smith, Chair of the Fairfax County School Board. A VIP breakfast reception was held prior to the opening session. Among those attending were Ms. Deborah Price, Deputy Undersecretary of Education and Ms. Myra Shook from the Virginia Department of Education. Dr. Alice Farling, Assistant Superintendent for Fairfax County Public Schools, presented a strong endorsement for mediation programs. On March 9th, the secondary schools day, the conference began with introductory remarks by Mr. Gerald Connolly, Chair of the Fairfax County Board of Supervisors.



Lt. Colonel Suzanne Devlin, Acting Chief of Police for Fairfax County, was presented with a plaque recognizing her contributions to mediation programs. She was part of the initial planning for the conference twelve years ago. In her remarks, Lt. Colonel Devlin encouraged the young mediators to use their skills to promote peaceful communities and relationships.



For both days of the conference, the keynote speaker, Mr. Juan Pacheco, from *Barrios Unidos* gave an inspiring talk to the participants. Mr. Pacheco works in his community to provide programs for youth to strengthen their community involvement and to discourage their association with gangs.

Participants selected workshops from 10 different tracks – ranging from introductory to highly advanced. The workshops are co-facilitated by adult mediators from the community and schools, facilitating in partnership with experienced HS and MS mediators. These partnerships empower student leaders to share their skills with fellow students.

Participants new to mediation attended introductory workshops that let them learn and practice the mediation process. Newly trained mediators focused on managing the mediation process. Experienced mediators gained advanced skills for mediating difficult situations and using conflict resolution skills outside of formal mediations. Highly experienced mediators learned strategies for mediating group conflicts. Additional workshops focused on building peaceable schools and communities, marketing mediation, using Improv as an effective method to promote conflict resolution, and Restorative Justice as a mediation model. Two adults-only workshops provided information about implementing mediation programs in schools and gave mediation coordinators an opportunity to dialogue about current issues in peer mediation.

This conference, sponsored by Fairfax County Public Schools and the Institute for Conflict Analysis and Resolution at George Mason University, has increased the popularity of mediation programs in Northern Virginia. Schools in Arlington, Alexandria, Prince William, Manassas, D.C. and Loudoun participate, with more schools becoming involved in mediation every year. The Northern Virginia Mediation Service (NVMS) is a co-sponsor of the conference. This year they set up a resource table, along with George Mason University, to help students learn about mediation beyond high school.

For many schools, the conference serves as their introduction to mediation programs. For example, in Fairfax County, there were only a handful of schools involved in conflict resolution education when the conference began in 1993. Today, there are programs in over 85 schools. Most elementary schools, even if they do not formally run a mediation program, teach conflict resolution skills. The county recognizes the importance of conflict resolution in schools. Training is provided on a regular basis for staff. Conflict resolution is a part of the Students Rights and Responsibilities, the school system discipline code.

The dates for the Student Mediation Conference for 2005 will be March 15th and 16th. It will again be held at George Mason University. Mediators and schools interested in participating should contact Marge Bleiweis, Conflict Resolution Specialist for FCPS at 703-876-5247 or email: Marjorie.bleiweis@fcps.edu.



VITA is Proactive in Implementing the Virginia Administrative Dispute Resolution Act (VADRA)

You may recall that the 2002 session of the Virginia General Assembly enacted the Virginia Administrative Dispute Resolution Act (VADRA), which encourages the use of alternative dispute resolution (ADR) by local governments and executive branch agencies in a variety of administrative areas.

The Virginia Information Technologies Agency (VITA) has taken a very active role in implementing ADR into its procurement policies. VITA personnel have conducted statewide agency training on the use of ADR in procurements and ADR agency training. VITA understands that a fundamental function of government is collaborative problem solving, including the fair and efficient management of conflict and resolution of disputes and is committed to the further development and promotion of ADR processes wherever possible.

www.vita.virginia.gov/

Look for the February 25, 2004 article on this subject.